

As Passed by the Senate

135th General Assembly

Regular Session

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Sub. S. B. No. 74

Senator Gavarone

**Cosponsors: Senators Cirino, Craig, Hackett, Hicks-Hudson, Ingram, Johnson,
Landis, Lang, Reineke, Reynolds, Rulli, Sykes, Wilson**

A BILL

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

new sections 135.61, 135.62, 135.63, 135.64, 23
135.65, and 135.66 and sections 113.22, 135.621, 24
135.622, 135.623, 135.624, 135.625, 169.053, and 25
1501.04; and to repeal sections 113.061, 113.07, 26
129.02, 129.03, 129.08, 129.10, 129.11, 129.12, 27
129.13, 129.14, 129.15, 129.16, 129.18, 129.19, 28
129.20, 129.72, 129.73, 129.74, 129.75, 129.76, 29
135.101, 135.102, 135.103, 135.104, 135.105, 30
135.106, 135.61, 135.62, 135.63, 135.64, 135.65, 31
135.66, 135.67, 135.68, 135.69, 135.70, 135.71, 32
135.72, 135.73, 135.74, 135.75, 135.76, 135.77, 33
135.771, 135.772, 135.773, 135.774, 135.78, 34
135.79, 135.791, 135.792, 135.793, 135.794, 35
135.795, 135.796, 135.81, 135.82, 135.83, 36
135.84, 135.85, 135.86, 135.87, 135.91, 135.92, 37
135.93, 135.94, 135.95, 135.96, 135.97, 144.01, 38
144.02, 144.03, 144.04, 144.05, 144.06, and 39
144.07 of the Revised Code regarding the 40
Treasurer of State and the electronic payment of 41
taxes. 42

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

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

2109.372, 2109.44, 3314.50, 3366.05, 3737.945, 3903.73, 3905.32, 50
3916.01, 3925.26, 4141.241, 4505.06, 4509.101, 4509.45, 4509.62, 51
4509.63, 4509.65, 4509.67, 4710.03, 4749.01, 4763.13, 5725.17, 52
5725.22, 5727.25, 5727.31, 5727.311, 5727.42, 5727.47, 5727.53, 53
5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.03, 54
5735.062, 5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 55
5743.15, 5745.03, 5745.04, 5745.041, 5747.059, 5747.07, 56
5747.072, 5747.42, 5747.44, 5747.451, 5815.26, and 5815.37 be 57
amended; section 113.41 (125.903) be amended for the purpose of 58
adopting a new section number as indicated in parentheses; and 59
new sections 135.61, 135.62, 135.63, 135.64, 135.65, and 135.66 60
and sections 113.22, 135.621, 135.622, 135.623, 135.624, 61
135.625, 169.053, and 1501.04 of the Revised Code be enacted to 62
read as follows: 63

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

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

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

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

(B) The state treasury consists of the moneys, claims, 76
bonds, notes, other obligations, stocks, and other securities, 77
receipts or other evidences of ownership, and other intangible 78

assets of the state that are required by law to be deposited in 79
the state treasury or are otherwise a part of the state 80
treasury. All assets of the state treasury shall be kept in the 81
rooms assigned the treasurer of state, with the vaults, safes, 82
and other appliances therein; provided, that: 83

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

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

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

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

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

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

The repositing and deposit of payments pursuant to 107

~~sections section 113.06 and 113.07~~ of the Revised Code ~~are~~ is in 108
compliance with this section. 109

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

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

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

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

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

(A) The securities lending program fund created under 136

<u>section 135.47 of the Revised Code;</u>	137
<u>(B) The account created under section 3366.05 of the</u>	138
<u>Revised Code that is in the custody of the treasurer of state</u>	139
<u>and not part of the state treasury.</u>	140
<u>Moneys credited to the treasurer's information technology</u>	141
<u>reserve fund shall be expended only to acquire or maintain</u>	142
<u>hardware, software, or contract services for the efficient</u>	143
<u>operation of the treasurer of state's office. Unexpended amounts</u>	144
<u>shall be retained in the fund and reserved for such future</u>	145
<u>technology needs.</u>	146
Sec. 113.40. (A) As used in this section:	147
(1) "Financial transaction device" includes a credit card,	148
debit card, charge card, prepaid or stored value card, or	149
automated clearinghouse network credit, debit, or e-check entry	150
that includes, but is not limited to, accounts receivable and	151
internet-initiated, point of purchase, and telephone-initiated	152
applications, or any other device or method for making an	153
electronic payment or transfer of funds.	154
(2) "State expenses" includes fees, costs, taxes,	155
assessments, fines, penalties, payments, or any other expense a	156
person owes to a state office under the authority of a state	157
elected official or to a state entity.	158
(3) "State elected official" means the governor,	159
lieutenant governor, attorney general, secretary of state,	160
treasurer of state, and auditor of state.	161
(4) "State entity" includes any state department, agency,	162
board, or commission that deposits funds into the state	163
treasury.	164

(B) Notwithstanding any other section of the Revised Code 165
and subject to division (D) of this section, the board of 166
deposit may adopt a resolution authorizing the acceptance of 167
payments by financial transaction device to pay for state 168
expenses. The resolution shall include all of the following: 169

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

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

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

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

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

The board of deposit's resolution also shall designate the 191
treasurer of state as the administrative agent to solicit 192
proposals, within guidelines established by the board of deposit 193

in the resolution and in compliance with the procedures provided 194
in division (C) of this section, from financial institutions, 195
issuers of financial transaction devices, and processors of 196
financial transaction devices; to make recommendations about 197
those proposals to the state elected officials; and to assist 198
state offices in implementing the state's financial transaction 199
device acceptance and processing program. 200

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

proposals will be electronically mailed. 225

Upon receiving the proposals, the administrative agent 226
shall review them and make a recommendation to the board of 227
deposit regarding which proposals to accept. The board of 228
deposit shall consider the agent's recommendation and review all 229
proposals submitted, and then may choose to contract with any or 230
all of the entities submitting proposals, as appropriate. The 231
board of deposit shall provide any financial institution, 232
issuer, or processor that submitted a proposal, but with which 233
the board does not enter into a contract, notice that its 234
proposal is rejected. 235

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

If a state entity under the authority of a state elected 251
official is directly responsible for collecting one or more 252
state expenses and the state elected official determines not to 253
accept payments by financial transaction device for one or more 254

of those expenses, the office is not required to accept payments 255
by financial transaction device for those expenses, 256
notwithstanding the adoption of a resolution by the board of 257
deposit under division (B) of this section. 258

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

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

financial transaction device.	286
The establishment of a surcharge or convenience fee shall	287
follow the guidelines of the financial institution, issuer of	288
financial transaction devices, or processor of financial	289
transaction devices with which the board of deposit contracts.	290
If a surcharge or convenience fee is imposed, every state	291
entity accepting payment by a financial transaction device,	292
regardless of whether that entity is subject to a resolution	293
adopted by the board of deposit, shall clearly post a notice in	294
the entity's office, and shall notify each person making a	295
payment by such a device, about the surcharge or fee. Notice to	296
each person making a payment shall be provided regardless of the	297
medium used to make the payment and in a manner appropriate to	298
that medium. Each notice shall include all of the following:	299
(1) A statement that there is a surcharge or convenience	300
fee for using a financial transaction device;	301
(2) The total amount of the charge or fee expressed in	302
dollars and cents for each transaction, or the rate of the	303
charge or fee expressed as a percentage of the total amount of	304
the transaction, whichever is applicable;	305
(3) A clear statement that the surcharge or convenience	306
fee is nonrefundable.	307
(F) If a person elects to make a payment by a financial	308
transaction device and a surcharge or convenience fee is	309
imposed, the payment of the surcharge or convenience fee is not	310
refundable.	311
(G) If a person makes payment by a financial transaction	312
device and the payment is returned or dishonored for any reason,	313
the person is liable to the state for the state expense and any	314

reimbursable costs for collection, including banking charges, 315
legal fees, or other expenses incurred by the state in 316
collecting the returned or dishonored payment. The remedies and 317
procedures provided in this section are in addition to any other 318
available civil or criminal remedies provided by law. 319

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

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

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

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

implement and administer this section. 345

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

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

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

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

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

contract; 374

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

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

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

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

(1) The procedure for a state agency, political 401
subdivision, or group of state agencies or political 402

subdivisions to request the treasurer of state and, as 403
applicable, the director of administrative services to enter 404
into a pay for success contract and to deposit the cost of the 405
contract with the treasurer of state; 406

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

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

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

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

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

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

~~(1) Create a business reply form that is capable of 428
containing information that a private business is required to 429
provide to state agencies on a regular basis. The director of 430
administrative services shall adopt rules in accordance with 431~~

~~Chapter 119. of the Revised Code specifying the information that~~ 432
~~the form shall contain. Subject to division (E) of this section,~~ 433
~~state agencies shall use the business reply form to obtain~~ 434
~~information from private businesses.~~ 435

~~(2) Create create and administer an on-line online~~ 436
~~computer network system to allow private businesses that allows~~ 437
~~persons to electronically file the business reply formforms and,~~ 438
~~as authorized in the Revised Code, tax information with state~~ 439
~~agencies or political subdivisions.~~ 440

~~In creating the business reply form described in division~~ 441
~~(A) (1) of this section, the director may consider the~~ 442
~~recommendations of interested parties from the small business~~ 443
~~community who have direct knowledge of and familiarity with the~~ 444
~~current state reporting requirements that apply to and the~~ 445
~~associated forms that are filed by small businesses.~~ 446

~~(B) The director shall establish procedures by which state~~ 447
~~agencies may share the information that is collected through the~~ 448
~~form established under division (A) of this section. These~~ 449
~~procedures shall provide that information that has been~~ 450
~~designated as confidential by any state agency shall not be made~~ 451
~~available to the other state agencies having access to the~~ 452
~~business reply form.~~ 453

~~(C) Not later than September 30, 1999, the director may~~ 454
~~report to the director of budget and management and to the~~ 455
~~committees that handle finance and the committees that handle~~ 456
~~state government affairs in the house of representatives and the~~ 457
~~senate on the progress of state agencies in complying with~~ 458
~~division (A) (1) of this section. The director may recommend a~~ 459
~~five per cent reduction in the future appropriations of any~~ 460
~~state agency that has failed to comply with that division~~ 461

~~without good cause.~~ 462

~~(D) As used in this section:~~ 463

~~(1) "State agency" means the secretary of state, the
department of job and family services regarding duties it
performs pursuant to Title XLI of the Revised Code, the bureau
of workers' compensation, the department of administrative
services, and any other state agency that elects to participate
in the pilot program as provided in division (E) of this
section.~~ 464
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~~(2) "Form" has the same meaning as in division (B) of
section 125.91 of the Revised Code.~~ 471
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~~(E) The provisions of this section pertaining to the
business reply form constitute a two-year pilot program. Not
later than one year after January 21, 1998, the department of
administrative services shall complete the planning and
preparation that is necessary to implement the pilot program.
The director of administrative services may request other state
agencies, as defined in division (A) of section 125.91 of the
Revised Code, to participate in the pilot program. If the
director so requests, the state agency may participate in the
program. The provisions of this section shall cease to have
effect three years after January 21, 1998. Within ninety days
after the completion of the pilot program, the director of
administrative services shall report to the director of budget
and management and the committees described in division (C) of
this section on the effectiveness of the pilot program.~~ 473
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Sec. 125.901. (A) There is hereby established the Ohio 488
geographically referenced information program council within the 489
department of administrative services to coordinate the property 490

owned by the state. The department of administrative services 491
shall provide administrative support for the council. 492

(B) The council shall consist of the following ~~fifteen~~ 493
fourteen members: 494

(1) The state chief information officer, or the officer's 495
designee, who shall serve as the council chair; 496

(2) The director of natural resources, or the director's 497
designee; 498

(3) The director of transportation, or the director's 499
designee; 500

(4) The director of environmental protection, or the 501
director's designee; 502

(5) The director of development services, or the 503
director's designee; 504

(6) ~~The treasurer of state, or the treasurer of state's~~ 505
~~designee;~~ 506

~~(7)~~The attorney general, or the attorney general's 507
designee; 508

~~(8)~~(7) The chancellor of higher education or the 509
chancellor's designee; 510

~~(9)~~(8) The chief of the division of oil and gas resources 511
management in the department of natural resources or the chief's 512
designee; 513

~~(10)~~(9) The director of public safety or the director's 514
designee; 515

~~(11)~~(10) The executive director of the county auditors' 516
association or the executive director's designee; 517

(12) <u>(11)</u> The executive director of the county	518
commissioners' association or the executive director's designee;	519
(13) <u>(12)</u> The executive director of the county engineers'	520
association or the executive director's designee;	521
(14) <u>(13)</u> The executive director of the Ohio municipal	522
league or the executive director's designee;	523
(15) <u>(14)</u> The executive director of the Ohio townships	524
association or the executive director's designee.	525
(C) Members of the council shall serve without	526
compensation.	527
Sec. 113.41 <u>125.903</u>. (A) The treasurer of state department	528
of administrative services shall develop and maintain a	529
comprehensive and descriptive database of all real property	530
under the custody and control of the state, except when	531
otherwise required for reasons of homeland security. <u>The</u>	532
<u>database shall adequately describe, when known, the location,</u>	533
<u>boundary, and acreage of the property, the use and name of the</u>	534
<u>property, and the contact information and name of the state</u>	535
<u>agency managing the property.</u> The information in the database	536
shall be available to the public free of charge through a	537
searchable internet web site. The treasurer of state shall allow	538
for public comment on property owned by the state.	539
(B) For purposes of the database, the Ohio geographically	540
referenced information program council established in section	541
125.901 of the Revised Code shall provide to the treasurer of	542
state, and the treasurer of state shall collect, information, in	543
a format prescribed by the treasurer of state, that adequately	544
describes <u>Each land-holding state agency shall collect and</u>	545
<u>maintain a geographic information systems database of its</u>	546

~~respective land holdings, when known, the location, acreage, and~~ 547
~~use of state-owned property. The~~ 548
~~and shall provide the database~~ 549
~~to the Ohio geographically referenced information program~~ 549
council established in section 125.901 of the Revised Code shall 550
make its best efforts to obtain the required information on the 551
state-owned property and shall submit updated information to the 552
treasurer of state as it becomes available. 553

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

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

When determining the availability of money in the total 577
operating fund to pay claims chargeable to a fund contained 578
within the total operating fund, the director of budget and 579
management shall use the same procedures and criteria the 580
director employs in determining the availability of money in a 581
fund contained within the total operating fund. The director may 582
establish limits on the negative cash balance of the general 583
revenue fund within the total operating fund, but in no case 584
shall the negative cash balance of the general revenue fund 585
exceed ten per cent of the total revenue of the general revenue 586
fund in the preceding fiscal year. 587

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

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

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

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

(D) Transfers of all or part of cash balances in excess of 604
needs from any fund of the state to the general revenue fund or 605

to such other fund of the state to which the money would have 606
been credited in the absence of the fund from which the 607
transfers are authorized to be made, except that the controlling 608
board may not authorize such transfers from the accrued leave 609
liability fund, auto registration distribution fund, local motor 610
vehicle license tax fund, budget stabilization fund, building 611
improvement fund, development bond retirement fund, facilities 612
establishment fund, gasoline excise tax fund, general revenue 613
fund, higher education improvement fund, highway improvement 614
bond retirement fund, highway capital improvement fund, highway 615
operating fund, horse racing tax fund, improvements bond 616
retirement fund, public library fund, liquor control fund, local 617
government fund, local transportation improvement program fund, 618
medicaid reserve fund, mental health facilities improvement 619
fund, Ohio fairs fund, parks and recreation improvement fund, 620
~~public improvements bond retirement fund,~~ school district income 621
tax fund, state agency facilities improvement fund, public 622
safety - highway purposes fund, state lottery fund, undivided 623
liquor permit fund, Vietnam conflict compensation bond 624
retirement fund, volunteer fire fighters' dependents fund, 625
waterways safety fund, wildlife fund, workers' compensation 626
fund, or any fund not specified in this division that the 627
director of budget and management determines to be a bond fund 628
or bond retirement fund; 629

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

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

(G) Transfer or release of all or part of an appropriation 637
to a state agency requiring controlling board approval of such 638
transfer or release as provided by law; 639

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

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

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

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

designated in the original request to the controlling board 667
shall be returned to the proper appropriation of the controlling 668
board at this time. 669

Notwithstanding any provisions of law providing for the 670
deposit of revenues received by a state agency to the credit of 671
a particular fund in the state treasury, whenever there is a 672
temporary transfer of funds included in the emergency purposes 673
appropriation of the controlling board pursuant to division (H) 674
of this section, revenues received by any state agency receiving 675
such a temporary transfer of funds shall, as directed by the 676
controlling board, be transferred back to the emergency purposes 677
appropriation. 678

The board may delegate to the director of budget and 679
management authority to approve transfers among items of 680
appropriation under division (A) of this section. 681

Sec. 129.06. Funds belonging to the sinking fund shall be 682
applied to the payment of the principal and interest of the 683
bonded debt of the state, and to the expenses of such payment. 684
~~When paid, bonds or certificates of the bonded debt of the state~~ 685
~~shall be canceled, and "paid" written on the face thereof with~~ 686
~~the date of payment, which inscription shall be signed by the~~ 687
~~board of commissioners of the sinking fund. Bonds or~~ 688
~~certificates so paid shall be taken from the proper accounts~~ 689
~~upon the individual and general stock ledgers and entered in the~~ 690
~~account of bonded debt paid, specifying the particular loan, the~~ 691
~~number and date of the certificate and bonds so paid, the~~ 692
~~amount, rate of interest, time at which it was redeemable, and~~ 693
~~in whose name it was standing when paid. All certificates or~~ 694
~~bonds so paid and canceled shall be filed in the office of the~~ 695
~~board.~~ 696

Sec. 129.09. Interest on the bonded debt of the state 697
shall be paid to the owner of bonds or certificates evidencing 698
such debt, or to such owner's agent, attorney, or legal 699
representative. ~~Written proof of the authority of such agent,~~ 700
~~attorney, or legal representative must be presented to and filed~~ 701
~~with the board of commissioners of the sinking fund.~~ 702

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

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

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

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

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

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

time.	726
(F) "Appropriation" means an authorization granted by the general assembly to make expenditures and to incur obligations for specific purposes.	727 728 729
(G) "Assets" means resources owned, controlled, or otherwise used or held by the state which have monetary value.	730 731
(H) "Budget" means the plan of financial operation embodying an estimate of proposed expenditures and obligations for a given period and the proposed means of financing them.	732 733 734
(I) "Direct deposit" is a form of electronic funds transfer in which money is electronically deposited into the account of a person or entity at a financial institution.	735 736 737
(J) "Disbursement" means a payment made for any purpose.	738
(K) "Electronic benefit transfer" means the electronic delivery of benefits through automated teller machines, point of sale terminals, or other electronic media pursuant to section 5101.33 of the Revised Code.	739 740 741 742
(L) "Electronic funds transfer" means the electronic movement of funds via automated clearing house or wire transfer.	743 744
(M) "Encumbrancing document" means a document reserving all or part of an appropriation.	745 746
(N) "Expenditure" means a reduction of the balance of an appropriation after legal requirements have been met.	747 748
(O) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources, together with all related liabilities, obligations, reserves, and fund balances which are segregated	749 750 751 752

for the purpose of carrying on specific activities or attaining 753
certain objectives in accordance with special rules, 754
restrictions, or limitations. 755

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

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

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

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

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

the ultimate payees. 782

The terms defined in this section shall be used, on all 783
accounting forms, reports, formal rules, and budget requests 784
produced by a state agency, only as defined in this section. 785

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

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

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

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

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

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

(C) "Capital funds" means the sum of the following: the 803
par value of the outstanding common capital stock, the par value 804
of the outstanding preferred capital stock, the aggregate par 805
value of all outstanding capital notes and debentures, and the 806
surplus. In the case of an institution having offices in more 807
than one county, the capital funds of such institution, for the 808
purposes of sections 135.01 to 135.21 of the Revised Code, 809

relative to the deposit of the public moneys of the subdivisions 810
in one such county, shall be considered to be that proportion of 811
the capital funds of the institution that is represented by the 812
ratio that the deposit liabilities of such institution 813
originating at the office located in the county bears to the 814
total deposit liabilities of the institution. 815

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

(E) "Inactive deposit" means a public deposit other than 840

an interim deposit or an active deposit. 841

(F) "Interim deposit" means a deposit of interim moneys. 842
"Interim moneys" means public moneys in the treasury of ~~the~~ 843
~~state or any subdivision~~ after the award of inactive deposits 844
has been made in accordance with section 135.07 of the Revised 845
Code, which moneys are in excess of the aggregate amount of the 846
inactive deposits as estimated by the governing board prior to 847
the period of designation and which the ~~treasurer or~~ governing 848
board finds should not be deposited as active or inactive 849
deposits for the reason that such moneys will not be needed for 850
immediate use but will be needed before the end of the period of 851
designation. In the case of the state treasury, "interim moneys" 852
means public moneys that are not active deposits and may be 853
invested in accordance with section 135.143 of the Revised Code. 854

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

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

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

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

settlement of obligations of the custodial fund. 870

(I) "Public deposit" means public moneys deposited in a 871
public depository pursuant to sections 135.01 to 135.21 of the 872
Revised Code. 873

(J) "Public depository" means an institution which 874
receives or holds any public deposits. 875

(K) "Public moneys" means all moneys in the treasury of 876
the state or any subdivision of the state, or moneys coming 877
lawfully into the possession or custody of the treasurer of 878
state or of the treasurer of any subdivision. "Public moneys of 879
the state" includes all such moneys coming lawfully into the 880
possession of the treasurer of state; and "public moneys of a 881
subdivision" includes all such moneys coming lawfully into the 882
possession of the treasurer of the subdivision. 883

(L) "Subdivision" means any municipal corporation, except 884
one which has adopted a charter under Article XVIII, Ohio 885
Constitution, and the charter or ordinances of the chartered 886
municipal corporation set forth special provisions respecting 887
the deposit or investment of its public moneys, or any school 888
district or educational service center, a county school 889
financing district, township, municipal or school district 890
sinking fund, special taxing or assessment district, or other 891
district or local authority electing or appointing a treasurer, 892
except a county. In the case of a school district or educational 893
service center, special taxing or assessment district, or other 894
local authority for which a treasurer, elected or appointed 895
primarily as the treasurer of a subdivision, is authorized or 896
required by law to act as ex officio treasurer, the subdivision 897
for which such a treasurer has been primarily elected or 898
appointed shall be considered to be the "subdivision." The term 899

also includes a union or joint institution or enterprise of two 900
or more subdivisions, that is not authorized to elect or appoint 901
a treasurer, and for which no ex officio treasurer is provided 902
by law. 903

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

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

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

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

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

(3) The fund does not include any investment in a 927
derivative. As used in division (O) (3) of this section, 928

"derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in section 135.14 or 135.35 of the Revised Code with a variable interest rate payment, based upon a single interest payment or single index comprised of other investments provided for in division (B) (1) or (2) of section 135.14 of the Revised Code, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

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

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

Sec. 135.02. There shall be a state board of deposit consisting of the treasurer of state or an employee of the treasurer of state's department designated by the treasurer of state, the auditor of state or an employee of the auditor of state's department designated by the auditor of state, and the attorney general or an employee of the attorney general's department designated by the attorney general. The board shall

meet on the call of the chairperson at least annually to perform 959
the duties prescribed in sections 135.01 to 135.21 of the 960
Revised Code. At any time, two members of the board may request 961
that the chairperson call a meeting of the board, and the 962
chairperson shall call the meeting within thirty days after 963
receiving such requests. The treasurer of state or the treasurer 964
of state's designated representative shall be chairperson of the 965
board. The treasurer of state shall designate an employee of the 966
treasurer of state's department to serve as the secretary of the 967
board and keep its records. A certified copy of such records 968
shall be prima-facie evidence of the matter appearing therein in 969
any court of record. 970

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

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

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

(B) To facilitate the ~~clearance of state warrants to~~ 986
settlement of obligations of the state treasury and custodial 987
funds in the custody of the treasurer of state, the state board 988

of deposit may delegate the authority to the treasurer of state 989
to establish warrant clearance accounts in any institution 990
mentioned in section 135.03 of the Revised Code ~~located in areas~~ 991
~~where the volume of warrant clearances justifies the~~ 992
~~establishment of an account as determined by the treasurer of~~ 993
~~state.~~ The balances maintained in such warrant clearance 994
accounts shall be at sufficient levels to cover the activity 995
generated by such accounts on an individual basis. Any financial 996
institution in the state that has a warrant clearance account 997
established by the treasurer of state shall, not more than ~~ten~~ 998
fifteen days after the close of each ~~quarter~~month, prepare and 999
transmit to the treasurer of state an analysis statement of such 1000
account for the ~~quarter~~month then ended. Such statement shall 1001
contain such information as determined by the state board of 1002
deposit, ~~and this information shall be used in whole or in part~~ 1003
~~by the treasurer of state in determining the level of balances~~ 1004
~~to be maintained in such accounts.~~ 1005

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

deposited for the remainder of the period of designation in 1020
accordance with sections 135.01 to 135.21 of the Revised Code. 1021

(D) Any institution mentioned in section 135.03 of the 1022
Revised Code is eligible to become a public depository of the 1023
inactive and interim deposits of public moneys of a subdivision. 1024
In case the aggregate amount of inactive or interim deposits 1025
applied for by such eligible institutions is less than the 1026
aggregate maximum amount of such inactive or interim deposits as 1027
estimated to be deposited pursuant to sections 135.01 to 135.21 1028
of the Revised Code, the governing board of the subdivision may 1029
designate as a public depository of the inactive or interim 1030
deposits of the public moneys thereof, one or more institutions 1031
of a kind mentioned in section 135.03 of the Revised Code, 1032
subject to the requirements of sections 135.01 to 135.21 of the 1033
Revised Code. 1034

(E) Any institution mentioned in section 135.03 of the 1035
Revised Code is eligible to become a public depository of the 1036
active deposits of public moneys of a subdivision. In case the 1037
aggregate amount of active deposits of the public moneys of the 1038
subdivision applied for by such eligible institutions is less 1039
than the aggregate maximum amount to be deposited as such, as 1040
estimated by the governing board, said board may designate as a 1041
public depository of the active deposits of the public moneys of 1042
the subdivision, one or more institutions of the kind mentioned 1043
in section 135.03 of the Revised Code, subject to the 1044
requirements of sections 135.01 to 135.21 of the Revised Code. 1045

(F) (1) The governing board of the state or of a 1046
subdivision may designate one or more minority banks as public 1047
depositories of its inactive, interim, or active deposits of 1048
public moneys designated as federal funds. Except for section 1049

135.18, 135.181, or 135.182 of the Revised Code, Chapter 135. of 1050
the Revised Code does not apply to the application for, or the 1051
award of, such deposits. As used in this division, "minority 1052
bank" means a bank that is owned or controlled by one or more 1053
socially or economically disadvantaged persons. Such 1054
disadvantage may arise from cultural, ethnic, or racial 1055
background, chronic economic circumstances, or other similar 1056
cause. Such persons include, but are not limited to, Afro- 1057
Americans, Puerto Ricans, Spanish-speaking Americans, and 1058
American Indians. 1059

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

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

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

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

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

(3) The purpose of this division is to recognize that the state has a substantial and compelling interest in encouraging the establishment, development, and stability of minority banks by facilitating their access to the award of federal funds, while ensuring the protection of the general public and the banking industry.

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

Sec. 135.05. Each governing board of a subdivision shall, at least three weeks prior to the date when it is required by section 135.12 of the Revised Code to designate public depositories, by resolution, estimate the aggregate maximum amount of public moneys subject to its control to be awarded and be on deposit as inactive deposits. ~~The state board of deposit shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in two newspapers of general circulation in each of the three most populous counties.~~ The governing board of each subdivision shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive

weeks in a newspaper of general circulation in the county or as 1110
provided in section 7.16 of the Revised Code. If a subdivision 1111
is located in more than one county, such publication shall be 1112
made in a newspaper of general circulation in the county in 1113
which the major part of such subdivision is located, and of 1114
general circulation in the subdivision. A written notice stating 1115
the aggregate maximum amount to be awarded as inactive deposits 1116
of the subdivision shall be given to each eligible depository by 1117
the governing board at the time the first publication is made in 1118
the newspaper. 1119

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

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

board of governors of the federal reserve system, and the rate 1141
of interest which the applicant will pay thereon, subject to the 1142
limitations of sections 135.01 to 135.21 of the Revised Code. 1143
Each application shall be accompanied by a financial statement 1144
of the applicant, under oath of its cashier, treasurer, or other 1145
officer, in such detail as to show the capital funds of the 1146
applicant, as of the date of its latest report to the 1147
superintendent of financial institutions, the comptroller of the 1148
currency, ~~the office of thrift supervision,~~ the federal deposit 1149
insurance corporation, or the board of governors of the federal 1150
reserve system, and adjusted to show any changes therein made 1151
prior to the date of the application. Such application may be 1152
combined with an application for designation as a public 1153
depository of active deposits, interim deposits, or both. 1154

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

limitations of sections 135.01 to 135.21 of the Revised Code. 1172

Each application shall be accompanied by a financial 1173
statement of the applicant, under oath of its cashier, 1174
treasurer, or other officer, in such detail as to show the 1175
capital funds of the applicant, as of the date of its latest 1176
report to the superintendent of financial institutions, the 1177
comptroller of the currency, ~~the office of thrift supervision,~~ 1178
the federal deposit insurance corporation, or the board of 1179
governors of the federal reserve system, and adjusted to show 1180
any changes therein made prior to the date of the application. 1181
Such application may be combined with an application for 1182
designation as a public depository of inactive deposits, active 1183
deposits, or both. 1184

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

deposits, or both. 1203

Sec. 135.12. (A) Beginning in ~~2004~~2025 and every four
years thereafter, the state board of deposit shall meet on the 1204
third Monday of March ~~in the even-numbered years~~ for the purpose 1205
of designating the public depositories of the public moneys of 1206
the state, and at such meeting or any adjourned session thereof 1207
shall designate such public depositories and award the public 1208
moneys of the state to and among the public depositories so 1209
designated for the period of ~~two~~four years commencing on the 1210
first Monday of July next following. 1211
1212

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

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

(D) If a governing board determines during a designation 1233
period that it is necessary and in the state's or subdivision's 1234
best interests to appoint additional depositories, the governing 1235
board may meet and designate one or more additional public 1236
depositories of the public moneys of the state or of the 1237
subdivision for the remainder of the designation period. 1238

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

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

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

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

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

(2) "Other obligations" includes notes whether or not 1261

issued in anticipation of the issuance of bonds. 1262

(B) The treasurer or governing board may invest or deposit 1263
any part or all of the interim moneys. The following 1264
classifications of obligations shall be eligible for such 1265
investment or deposit: 1266

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

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

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

(3) Interim deposits in the eligible institutions applying 1285
for interim moneys as provided in section 135.08 of the Revised 1286
Code. The award of interim deposits shall be made in accordance 1287
with section 135.09 of the Revised Code and the treasurer or the 1288
governing board shall determine the periods for which such 1289
interim deposits are to be made and shall award such interim 1290

deposits for such periods, provided that any eligible 1291
institution receiving an interim deposit award may, upon 1292
notification that the award has been made, decline to accept the 1293
interim deposit in which event the award shall be made as though 1294
the institution had not applied for such interim deposit. 1295

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

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

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

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

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

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

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

additional training shall be approved by the treasurer of state 1320
and may be conducted by or provided under the supervision of the 1321
treasurer of state. 1322

(5) No-load money market mutual funds consisting 1323
exclusively of obligations described in division (B) (1) or (2) 1324
of this section and repurchase agreements secured by such 1325
obligations, provided that investments in securities described 1326
in this division are made only through eligible institutions 1327
mentioned in section 135.03 of the Revised Code; 1328

(6) The Ohio subdivision's fund as provided in section 1329
135.45 of the Revised Code; 1330

(7) Up to forty per cent of interim moneys available for 1331
investment in either of the following: 1332

(a) Commercial paper notes issued by an entity that is 1333
defined in ~~division (D) of section 1705.01 or division (E) (K)~~ 1334
of section 1706.01 of the Revised Code and that has assets 1335
exceeding five hundred million dollars, to which notes all of 1336
the following apply: 1337

(i) The notes are rated at the time of purchase in the 1338
highest classification established by at least two nationally 1339
recognized ~~standard~~ statistical rating services organizations. 1340

(ii) The aggregate value of the notes does not exceed ten 1341
per cent of the aggregate value of the outstanding commercial 1342
paper of the issuing corporation. 1343

(iii) The notes mature not later than two hundred seventy 1344
days after purchase. 1345

(iv) The investment in commercial paper notes of a single 1346
issuer shall not exceed in the aggregate five per cent of 1347

interim moneys available for investment at the time of purchase. 1348

(b) Bankers acceptances of banks that are insured by the 1349
federal deposit insurance corporation and that mature not later 1350
than one hundred eighty days after purchase. 1351

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

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

(D) Except as provided in division (B) (4) or (E) of this 1377

section, any investment made pursuant to this section must 1378
mature within five years from the date of settlement, unless the 1379
investment is matched to a specific obligation or debt of the 1380
subdivision. 1381

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

(1) The par value of the securities; 1407

(2) The type, rate, and maturity date of the securities;	1408
(3) A numerical identifier generally accepted in the securities industry that designates the securities.	1409 1410
No treasurer or governing board shall enter into a written repurchase agreement under the terms of which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.	1411 1412 1413 1414 1415
(F) No treasurer or governing board shall make an investment under this section, unless the treasurer or governing board, at the time of making the investment, reasonably expects that the investment can be held until its maturity.	1416 1417 1418 1419
(G) No treasurer or governing board shall pay interim moneys into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established for the purpose of investing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:	1420 1421 1422 1423 1424 1425
(1) The Ohio subdivision's fund pursuant to division (B) (6) of this section;	1426 1427
(2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.	1428 1429 1430 1431
For purposes of division (G) of this section, "subdivision" includes a county.	1432 1433
(H) The use of leverage, in which the treasurer or governing board uses its current investment assets as collateral	1434 1435

for the purpose of purchasing other assets, is prohibited. The 1436
issuance of taxable notes for the purpose of arbitrage is 1437
prohibited. Contracting to sell securities that have not yet 1438
been acquired by the treasurer or governing board, for the 1439
purpose of purchasing such securities on the speculation that 1440
bond prices will decline, is prohibited. 1441

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

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

the name of the treasurer as such. 1467

(K) The treasurer is responsible for the safekeeping of 1468
all documents evidencing a deposit or investment acquired by the 1469
treasurer under this section. Any securities may be deposited 1470
for safekeeping with a qualified trustee as provided in section 1471
135.18 of the Revised Code, except the delivery of securities 1472
acquired under any repurchase agreement under this section shall 1473
be made to a qualified trustee, provided, however, that the 1474
qualified trustee shall be required to report to the treasurer, 1475
governing board, auditor of state, or an authorized outside 1476
auditor at any time upon request as to the identity, market 1477
value, and location of the document evidencing each security, 1478
and that if the participating institution is a designated 1479
depository of the subdivision for the current period of 1480
designation, the securities that are the subject of the 1481
repurchase agreement may be delivered to the treasurer or held 1482
in trust by the participating institution on behalf of the 1483
subdivision. Interest earned on any investments or deposits 1484
authorized by this section shall be collected by the treasurer 1485
and credited by the treasurer to the proper fund of the 1486
subdivision. 1487

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

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

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

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

(N) In making investments authorized by this section, a treasurer or governing board may retain the services of an investment advisor, provided the advisor is licensed by the division of securities under section 1707.141 of the Revised Code or is registered with the securities and exchange commission, and possesses experience in public funds investment management, specifically in the area of state and local

government investment portfolios, or the advisor is an eligible 1528
institution mentioned in section 135.03 of the Revised Code. 1529

(O) (1) Except as otherwise provided in divisions (O) (2) 1530
and (3) of this section, no treasurer or governing board shall 1531
make an investment or deposit under this section, unless there 1532
is on file with the auditor of state a written investment policy 1533
approved by the treasurer or governing board. The policy shall 1534
require that all entities conducting investment business with 1535
the treasurer or governing board shall sign the investment 1536
policy of that subdivision. All brokers, dealers, and financial 1537
institutions, described in division (M) (1) of this section, 1538
initiating transactions with the treasurer or governing board by 1539
giving advice or making investment recommendations shall sign 1540
the treasurer's or governing board's investment policy thereby 1541
acknowledging their agreement to abide by the policy's contents. 1542
All brokers, dealers, and financial institutions, described in 1543
division (M) (1) of this section, executing transactions 1544
initiated by the treasurer or governing board, having read the 1545
policy's contents, shall sign the investment policy thereby 1546
acknowledging their comprehension and receipt. 1547

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

(3) Divisions (0) (1) and (2) of this section do not apply 1558
to a treasurer or governing board of a subdivision whose average 1559
annual portfolio of investments held pursuant to this section is 1560
one hundred thousand dollars or less, provided that the 1561
treasurer or governing board certifies, on a form prescribed by 1562
the auditor of state, that the treasurer or governing board will 1563
comply and is in compliance with the provisions of sections 1564
135.01 to 135.21 of the Revised Code. 1565

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

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

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

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

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

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

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

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

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

(2) Bankers' acceptances of banks that are insured by the 1615
federal deposit insurance corporation and that mature no later 1616

than one hundred eighty days after purchase. 1617

(B) No investment authorized pursuant to division (A) of 1618
this section shall be made, whether or not authorized by a board 1619
of education, unless the treasurer of the board of education has 1620
completed additional training for making the types of 1621
investments authorized pursuant to division (A) of this section. 1622
The type and amount of such training shall be approved and may 1623
be conducted by or provided under the supervision of the 1624
treasurer of state. 1625

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

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

(E) (1) In addition to the investments authorized by 1638
section 135.14 of the Revised Code and division (A) of this 1639
section, any board of education that is a party to an agreement 1640
with the treasurer of state pursuant to division (G) of section 1641
135.143 of the Revised Code and that has outstanding obligations 1642
issued under authority of section 133.10 of the Revised Code may 1643
authorize the treasurer of the board of education to invest 1644
interim moneys of the board in debt interests rated in either of 1645
the two highest rating classifications by at least two 1646

nationally recognized ~~standard statistical rating services~~ 1647
~~organizations~~ and issued by entities that are defined in 1648
~~division (D) of section 1705.01 or division (E) (K) of section~~ 1649
1706.01 of the Revised Code. The debt interests purchased under 1650
authority of division (E) of this section shall mature not later 1651
than the latest maturity date of the outstanding obligations 1652
issued under authority of section 133.10 or 133.301 of the 1653
Revised Code. 1654

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

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

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

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

(3) (a) Bonds, notes, and other obligations of the state of 1677
Ohio, including, but not limited to, any obligations issued by 1678
the treasurer of state, the Ohio public facilities commission, 1679
~~the Ohio building authority,~~ the Ohio housing finance agency, 1680
the Ohio water development authority, the Ohio turnpike 1681
infrastructure commission, the Ohio higher educational facility 1682
commission, and state institutions of higher education as 1683
defined in section 3345.011 of the Revised Code; 1684

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

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

qualified trustee or agent designated by the treasurer of state. 1708
The agreement shall contain the requirement that for each 1709
transaction pursuant to the agreement, the participating 1710
institution ~~or,~~ dealer, or counterparty shall provide all of 1711
the following information: 1712

(i) The par value of the securities; 1713

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

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

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

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

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

Securities and cash received as collateral for a 1736

securities lending agreement are not interim funds of the state. 1737
The investment of cash collateral received pursuant to a 1738
securities lending agreement may be invested only in such 1739
instruments specified by the treasurer of state in accordance 1740
with a written investment policy. 1741

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

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

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

(9) Negotiable certificates of deposit denominated in 1764
United States dollars issued by a nationally or state-chartered 1765
bank, a savings association or a federal savings association, a 1766

state or federal credit union, or a federally licensed or state- 1767
licensed branch of a foreign bank, which are rated in the two 1768
highest categories by two nationally recognized ~~standard-~~ 1769
statistical rating organizations services, provided that the 1770
total amount invested under this section in negotiable 1771
certificates of deposit at any time shall not exceed twenty-five 1772
per cent of the state's total average portfolio, as determined 1773
and calculated by the treasurer of state. Interim funds invested 1774
in accordance with division (A) (9) of this section are not 1775
limited to institutions applying for interim moneys under 1776
section 135.08 of the Revised Code, nor are they subject to any 1777
pledging requirements described in sections 135.18, 135.181, or 1778
135.182 of the Revised Code. 1779

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

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

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

(b) The investments in debt interests issued by foreign 1795
nations shall not exceed in the aggregate two per cent of the 1796

state's portfolio. 1797

The treasurer of state shall invest under division (A) (11) 1798
of this section in a debt interest issued by a foreign nation 1799
only if the debt interest is backed by the full faith and credit 1800
of that foreign nation, and provided that all interest and 1801
principal shall be denominated and payable in United States 1802
funds. 1803

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

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

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

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

(13) Obligations issued by, or on behalf of, an Ohio 1824
political subdivision under Chapter 133. of the Revised Code or 1825

Section 12 of Article XVIII, Ohio Constitution, and identified 1826
in an agreement described in division (G) of this section; 1827

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

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

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

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

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

In the event the state board of deposit does not concur in 1850
such classification or in the investments or deposits made under 1851
this section, the board may order the treasurer of state to sell 1852
or liquidate any of the investments or deposits, and any such 1853
order shall specifically describe the investments or deposits 1854

and fix the date upon which they are to be sold or liquidated. 1855
Investments or deposits so ordered to be sold or liquidated 1856
shall be sold or liquidated for cash by the treasurer of state 1857
on the date fixed in such order at the then current market 1858
price. Neither the treasurer of state nor the members of the 1859
state board of deposit shall be held accountable for any loss 1860
occasioned by sales or liquidations of investments or deposits 1861
at prices lower than their cost. Any loss or expense incurred in 1862
making these sales or liquidations is payable as other expenses 1863
of the treasurer's office. 1864

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

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

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

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

(G) The treasurer of state and any entity issuing obligations referred to in division (A) (13) of this section, which obligations mature within one year from the original date of issuance, may enter into an agreement providing for:

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

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

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

(I) All money collected by the treasurer of state from the fee imposed by division (G) of this section shall be deposited to the credit of the state political subdivision obligations fund, which is hereby created in the state treasury. Money credited to the fund shall be used solely to pay the treasurer

of state's direct and indirect costs associated with purchasing 1914
and reselling obligations under division (G) of this section. 1915

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

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

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

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

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

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

serviceorganization. 1943

(4) All money collected by the treasurer of state from the 1944
fee imposed by division (K) of this section shall be deposited 1945
to the credit of the state securities tender program fund, which 1946
is hereby created in the state treasury. The amount of income 1947
from the state securities tender program credited to the state 1948
securities tender program fund shall not exceed one per cent of 1949
the average par value of obligations subject to agreements under 1950
division (K) (1) of this section. All other such income shall be 1951
credited to the general revenue fund. The treasurer of state may 1952
use the state securities tender program fund solely for 1953
operations of the office of the treasurer of state. 1954

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

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

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

(2) For purposes of division (L) (1) of this section, 1970
"obligations," "state university or college," "bond service 1971

charges," and "bond proceedings" have the same meanings as in 1972
section 3345.12 of the Revised Code. 1973

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

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

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

(1) "Public depository" means that term as defined in 2002
section 135.01 of the Revised Code, but also means an 2003
institution that receives or holds any public deposits as 2004
defined in section 135.31 of the Revised Code. 2005

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

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

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

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

(b) An amount determined by rules adopted by the treasurer 2029
of state that set forth the criteria for determining the 2030

aggregate market value of the pool of eligible securities 2031
pledged by a public depository pursuant to division (B) of this 2032
section. Such criteria shall include, but are not limited to, 2033
prudent capital and liquidity management by the public 2034
depository and the safety and soundness of the public depository 2035
as determined by a third-party rating organization. 2036

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

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

public depository. 2062

(C) The public depository shall designate a qualified 2063
trustee approved by the treasurer of state and place with such 2064
trustee for safekeeping the eligible securities pledged pursuant 2065
to division (B) of this section. The trustee shall hold the 2066
eligible securities in an account indicating the treasurer of 2067
state's security interest in the eligible securities. The 2068
treasurer of state shall give written notice of the trustee to 2069
all public depositors for which such securities are pledged. The 2070
trustee shall report to the treasurer of state information 2071
relating to the securities pledged to secure such public 2072
deposits in a manner and frequency as determined by the 2073
treasurer of state. 2074

(D) In order for a public depository to receive public 2075
moneys under this section, the public depository and the 2076
treasurer of state shall first execute an agreement that sets 2077
forth the entire arrangement among the parties and that meets 2078
the requirements described in 12 U.S.C. 1823(e). In addition, 2079
the agreement shall authorize the treasurer of state to obtain 2080
control of the collateral pursuant to division (D) of section 2081
1308.24 of the Revised Code. 2082

(E) The securities or other obligations described in 2083
division (D) of section 135.18 of the Revised Code shall be 2084
eligible as collateral for the purposes of division (B) of this 2085
section, provided no such securities or obligations pledged as 2086
collateral are at any time in default as to either principal or 2087
interest. 2088

(F) Any federal reserve bank or branch thereof located in 2089
this state or federal home loan bank, without compliance with 2090
Chapter 1111. of the Revised Code and without becoming subject 2091

to any other law of this state relative to the exercise by 2092
corporations of trust powers generally, is qualified to act as 2093
trustee for the safekeeping of securities, under this section. 2094
Any institution mentioned in section 135.03 or 135.32 of the 2095
Revised Code that holds a certificate of qualification issued by 2096
the superintendent of financial institutions or any institution 2097
complying with sections 1111.04, 1111.05, and 1111.06 of the 2098
Revised Code is qualified to act as trustee for the safekeeping 2099
of securities under this section, other than those belonging to 2100
itself or to an affiliate as defined in section 1101.01 of the 2101
Revised Code. 2102

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

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

(I) The qualified trustee shall enter into a custodial 2121

agreement with the treasurer of state and public depository in 2122
which the trustee agrees to comply with entitlement orders 2123
originated by the treasurer of state without further consent by 2124
the public depository or, in the case of collateral held by the 2125
public depository in an account at a federal reserve bank, the 2126
treasurer of state shall have the treasurer's security interest 2127
marked on the books of the federal reserve bank where the 2128
account for the collateral is maintained. If the public 2129
depository fails to pay over any part of the public deposits 2130
made therein as provided by law and secured pursuant to division 2131
(B) of this section, the treasurer of state shall give written 2132
notice of this failure to the qualified trustee holding the pool 2133
of securities pledged against the public deposits, and at the 2134
same time shall send a copy of this notice to the public 2135
depository. Upon receipt of this notice, the trustee shall 2136
transfer to the treasurer of state for sale, the pooled 2137
securities that are necessary to produce an amount equal to the 2138
public deposits made by the public depositor and not paid over, 2139
less the portion of the deposits covered by any federal deposit 2140
insurance, plus any accrued interest due on the deposits. The 2141
treasurer of state shall sell any of the bonds or other 2142
securities so transferred. When a sale of bonds or other 2143
securities has been so made and upon payment to the public 2144
depositor of the purchase money, the treasurer of state shall 2145
transfer such bonds or securities whereupon the absolute 2146
ownership of such bonds or securities shall pass to the 2147
purchasers. Any surplus after deducting the amount due to the 2148
public depositor and expenses of sale shall be paid to the 2149
public depository. 2150

(J) Any charges or compensation of a qualified trustee for 2151
acting as such under this section shall be paid by the public 2152

depository and in no event shall be chargeable to the public 2153
depositor or to any officer of the public depositor. The charges 2154
or compensation shall not be a lien or charge upon the 2155
securities deposited for safekeeping prior or superior to the 2156
rights to and interests in the securities of the public 2157
depositor. The treasurer and the treasurer's bonders or surety 2158
shall be relieved from any liability to the public depositor or 2159
to the public depository for the loss or destruction of any 2160
securities deposited with a qualified trustee pursuant to this 2161
section. 2162

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

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

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

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

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

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

program. 2182

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

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

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

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

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

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

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

(B) "Inactive moneys" means all public moneys in public 2209

depositories in excess of the amount determined to be needed as 2210
active moneys. 2211

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

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

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

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

(G) "No-load money market mutual fund" means a no-load 2221
money market mutual fund that is registered as an investment 2222
company under the "Investment Company Act of 1940," 54 Stat. 2223
789, 15 U.S.C.A. 80a-1 to 80a-64, and that has the highest 2224
letter or numerical rating provided by at least one nationally 2225
recognized ~~standard~~ statistical rating ~~service~~ organization. 2226

Sec. 135.35. (A) The investing authority shall deposit or 2227
invest any part or all of the county's inactive moneys and shall 2228
invest all of the money in the county public library fund when 2229
required by section 135.352 of the Revised Code. The following 2230
classifications of securities and obligations are eligible for 2231
such deposit or investment: 2232

(1) United States treasury bills, notes, bonds, or any 2233
other obligation or security issued by the United States 2234
treasury, any other obligation guaranteed as to principal or 2235
interest by the United States, or any book entry, zero-coupon 2236
United States treasury security that is a direct obligation of 2237
the United States. 2238

Nothing in the classification of eligible securities and obligations set forth in divisions (A) (2) to (10) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

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

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

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

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

(6) The Ohio subdivision's fund as provided in section	2269
135.45 of the Revised Code;	2270
(7) Securities lending agreements with any eligible	2271
institution mentioned in section 135.32 of the Revised Code that	2272
is a member of the federal reserve system or federal home loan	2273
bank or with any recognized United States government securities	2274
dealer meeting the description in division (J) (1) of this	2275
section, under the terms of which agreements the investing	2276
authority lends securities and the eligible institution or	2277
dealer agrees to simultaneously exchange similar securities or	2278
cash, equal value for equal value.	2279
Securities and cash received as collateral for a	2280
securities lending agreement are not inactive moneys of the	2281
county or moneys of a county public library fund. The investment	2282
of cash collateral received pursuant to a securities lending	2283
agreement may be invested only in instruments specified by the	2284
investing authority in the written investment policy described	2285
in division (K) of this section.	2286
(8) Up to forty per cent of the county's total average	2287
portfolio in either of the following investments:	2288
(a) Commercial paper notes issued by an entity that is	2289
defined in division (D) of section 1705.01 or division (E) of	2290
section 1706.01 of the Revised Code and that has assets	2291
exceeding five hundred million dollars, to which notes all of	2292
the following apply:	2293
(i) The notes are rated at the time of purchase in the	2294
highest classification established by at least two nationally	2295
recognized standard - <u>statistical</u> rating services <u>organizations</u> .	2296
(ii) The aggregate value of the notes does not exceed ten	2297

per cent of the aggregate value of the outstanding commercial 2298
paper of the issuing corporation. 2299

(iii) The notes mature not later than two hundred seventy 2300
days after purchase. 2301

(iv) The investment in commercial paper notes of a single 2302
issuer shall not exceed in the aggregate five per cent of 2303
interim moneys available for investment at the time of purchase. 2304

(b) Bankers acceptances of banks that are insured by the 2305
federal deposit insurance corporation and that mature not later 2306
than one hundred eighty days after purchase. 2307

No investment shall be made pursuant to division (A) (8) of 2308
this section unless the investing authority has completed 2309
additional training for making the investments authorized by 2310
division (A) (8) of this section. The type and amount of 2311
additional training shall be approved by the treasurer of state 2312
and may be conducted by or provided under the supervision of the 2313
treasurer of state. 2314

(9) Up to fifteen per cent of the county's total average 2315
portfolio in notes issued by corporations that are incorporated 2316
under the laws of the United States and that are operating 2317
within the United States, or by depository institutions that are 2318
doing business under authority granted by the United States or 2319
any state and that are operating within the United States, 2320
provided both of the following apply: 2321

(a) The notes are rated in the three highest categories by 2322
at least two nationally recognized ~~standard~~ statistical rating 2323
~~services organizations~~ at the time of purchase. 2324

(b) The notes mature not later than three years after 2325
purchase. 2326

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

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

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

(B) Nothing in the classifications of eligible obligations 2356

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

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

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

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

(1) The par value of the securities; 2412

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

reserves. 2627

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(H) As used in this section: 2740

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

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

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

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

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

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

this section. 2802

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

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

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

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

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

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

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

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

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

"Homestead" includes so much of the land surrounding the 2844
dwelling as is reasonably necessary for the use of the dwelling 2845
as a residence, as determined by the treasurer of state. 2846

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

deposited with an eligible lending institution. 2948

(B) Upon acceptance of the linked deposit loan package or 2949
any portion of it, the treasurer of state may place, purchase, 2950
or designate a linked deposit with the eligible lending 2951
institution at the discount interest rate, and in accordance 2952
with the deposit agreement required under section 135.623 of the 2953
Revised Code and the procedures established by the treasurer of 2954
state. 2955

(C) Eligible lending institutions shall comply fully with 2956
Chapter 135. of the Revised Code. 2957

Sec. 135.623. (A) An eligible lending institution shall 2958
enter into a deposit agreement with the treasurer of state, 2959
which shall include requirements necessary to carry out the 2960
purposes of sections 135.62 to 135.66 of the Revised Code. 2961

(B) The deposit agreement shall specify the maturity 2962
period of the linked deposit considered appropriate by the 2963
treasurer of state, which shall not exceed five years, as well 2964
as any other information, terms, or conditions the treasurer of 2965
state may require. Interest shall be paid by the eligible 2966
lending institution at times determined by the treasurer of 2967
state. 2968

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

to or greater than the present borrowing rate applicable to each 2977
specific eligible borrower in the accepted linked deposit loan 2978
package minus the difference between the prevailing interest 2979
rate and the discount interest rate at which the linked deposits 2980
were placed, made, or designated. 2981

(B) The eligible lending institution shall provide to the 2982
treasurer of state a certificate of compliance with division (A) 2983
of this section, in the form and manner prescribed by the 2984
treasurer of state. 2985

(C) Upon the conclusion of the maturity period, the 2986
treasurer of state may allow for the renewal of an application 2987
for a linked deposit program with the same terms for one or more 2988
additional maturity periods if certain requirements are met, as 2989
determined by the treasurer of state. In the event the treasurer 2990
of state does not allow for renewal, the requirements are not 2991
met, or the eligible borrower is not eligible for a renewal, an 2992
eligible borrower may submit a new application to participate in 2993
a linked deposit program. 2994

(D) At the time of maturity or upon the repayment of a 2995
loan in its entirety, whichever is earlier, the eligible 2996
financial institution shall return the amount of the 2997
corresponding linked deposit to the treasurer of state in a 2998
timely manner, as prescribed by the treasurer of state. 2999

(E) The treasurer of state shall take any and all steps 3000
necessary to implement and administer the linked deposit 3001
programs, including the development of guidelines as necessary. 3002

Sec. 135.625. (A) The state and the treasurer of state are 3003
not liable to any eligible lending institution or any eligible 3004
borrower in any manner for payment of the principal or interest 3005

on a loan to an eligible borrower. Any delay in payments, 3006
default on the part of an eligible borrower, or misuse or 3007
misconduct on the part of an eligible lending institution or 3008
eligible borrower does not in any manner affect the deposit 3009
agreement required by section 135.623 of the Revised Code 3010
between the eligible lending institution and the treasurer of 3011
state. 3012

(B) If an eligible lending institution changes the terms 3013
of a loan to an eligible borrower because of a delay in payments 3014
or default, the amount of the linked deposit associated with the 3015
loan plus applicable interest and without early withdrawal 3016
penalties shall be returned to the treasurer of state by the 3017
eligible lending institution in a timely manner as prescribed by 3018
the treasurer of state. 3019

Sec. 135.63. (A) The general assembly finds that 3020
strengthening families across Ohio is critical toward ensuring 3021
the long-term prosperity of the state. However, the upfront 3022
financial costs associated with adoption often deter families 3023
from pursuing the adoption process. Accordingly, it is declared 3024
to be the public policy of the state through the adoption linked 3025
deposit program to create the availability of reduced rate loans 3026
to reduce the financial burden of adoption and to strengthen 3027
families in this state. 3028

(B) An eligible borrower for the adoption linked deposit 3029
program is an individual who is a resident of this state and to 3030
whom either of the following applies: 3031

(1) The individual completes a home study pursuant to 3032
section 3107.031 of the Revised Code and is approved to adopt. 3033

(2) The individual is pursuing an adoption through the 3034

public foster care system and meets the requirements set by the 3035
department of job and family services. 3036

(C) An eligible lending institution for the adoption 3037
linked deposit program must be able to make secured or unsecured 3038
personal loans. 3039

(D) An eligible borrower shall certify on the borrower's 3040
loan application that the reduced rate loan will be used 3041
exclusively to pay for qualifying adoption expenses. 3042

Sec. 135.64. (A) The general assembly finds that Ohio's 3043
agricultural industry has long served as a critical component of 3044
the state's overall economy. However, an inadequate supply of 3045
affordable financing options that meet the needs of Ohio's 3046
agricultural community and other various economic pressures pose 3047
an ongoing challenge for farmers, agribusiness, and agricultural 3048
cooperatives as they work to grow or maintain sufficient 3049
operations throughout the year. Accordingly, it is declared to 3050
be the public policy of the state through the agricultural 3051
linked deposit program to create the availability of reduced 3052
rate loans to inject needed capital into the agricultural 3053
community, sustain or improve agricultural economic growth and 3054
profitability, and protect a core driver of the state's economy. 3055

(B) An eligible borrower for the agricultural linked 3056
deposit program is any person engaged in agriculture that has 3057
all the following characteristics: 3058

(1) Is headquartered or domiciled in this state; 3059

(2) Maintains land or facilities for agricultural purposes 3060
in this state provided that the land or facilities within this 3061
state comprise not less than fifty-one per cent of the total of 3062
all lands or facilities maintained by the person; 3063

(3) Is either organized for profit or as an agricultural cooperative as defined in section 1729.01 of the Revised Code. 3064
3065

(C) An eligible lending institution for the agricultural linked deposit program must be able to make commercial loans. 3066
3067

(D) An eligible borrower shall certify on its loan application that the reduced rate loan will be used exclusively for agricultural purposes on land or in facilities owned or operated by the eligible borrower in this state and that the loan will materially contribute to the preservation or growth of the business. 3068
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Sec. 135.65. (A) The general assembly finds that small businesses make significant contributions to the state's economic well-being. However, various economic challenges, such as tightened capital availability, inflationary pressures, or rising interest rates, can cause disproportionate harm to small businesses and discourage aspiring job creators from taking root in Ohio. Accordingly, it is declared to be the public policy of the state through the small business linked deposit program to create the availability of reduced rate loans to inject needed capital into the business community, sustain or improve small business growth profitability, protect the jobs of residents, and foster economic growth and development within Ohio's small businesses. 3074
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(B) An eligible borrower for the small business linked deposit program is any person, including a person engaged in agriculture, that has all the following characteristics: 3087
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3089

(1) Is headquartered or domiciled in this state; 3090

(2) Maintains offices or operating facilities in this state, provided that the offices or operating facilities within 3091
3092

the state comprise not less than fifty-one per cent of the total 3093
of all offices and operating facilities maintained by the 3094
business; 3095

(3) Employs fewer than one hundred fifty employees, not 3096
less than fifty-one per cent of whom are residents of this 3097
state; 3098

(4) Is organized for profit. 3099

(C) An eligible lending institution for the small business 3100
linked deposit program must be able to make commercial loans. 3101

(D) An eligible borrower shall certify on its loan 3102
application that the reduced rate loan will be used exclusively 3103
in this state to create new jobs, preserve existing jobs and 3104
employment opportunities, or materially contribute to the 3105
preservation or growth of the business. 3106

Sec. 135.66. (A) The general assembly finds that making 3107
homeownership and maintenance costs more affordable is an 3108
important part of fostering a robust and lasting population 3109
across the state. However, homeowners often struggle to find 3110
adequate and affordable financing options to pursue home 3111
improvement, home restoration, or similar types of projects and 3112
upgrades aimed at maintaining or increasing the livability and 3113
value of a home. Accordingly, it is declared to be the public 3114
policy of the state through the home improvement linked deposit 3115
program to create the availability of reduced rate loans to 3116
improve, maintain, or restore an existing homestead. 3117

(B) An eligible borrower for the home improvement linked 3118
deposit program is any individual who is a resident of this 3119
state and to whom both of the following apply: 3120

(1) The individual is the owner of an existing homestead 3121

located in this state. 3122

(2) The loan will be used to improve or maintain that 3123
existing homestead. 3124

(C) An eligible lending institution for the home 3125
improvement linked deposit program must be able to make 3126
residential or secured or unsecured personal loans. 3127

(D) An eligible borrower shall certify on the loan 3128
application that the reduced rate loan will be used exclusively 3129
to improve, maintain, or restore the eligible borrower's 3130
existing homestead, in accordance with the program goals 3131
outlined in division (A) of this section. 3132

(E) An eligible borrower shall include in the loan 3133
application official estimates or receipts for the total amount 3134
of the loan. 3135

Sec. 169.053. (A) As used in this section, "state of Ohio 3136
coupon bond" means property, tangible or intangible, in the form 3137
of a coupon bond and its related interest coupons issued by this 3138
state prior to 1985 and to which all of the following apply: 3139

(1) It has matured, been called and defeased, or otherwise 3140
become due and payable. 3141

(2) Either the treasurer of state or the trustee bank is 3142
the paying agent. 3143

(3) The owner has neither registered the bond or interest 3144
coupon nor claimed the bond's principal or interest. 3145

(B) Notwithstanding any provision of the Revised Code to 3146
the contrary, state of Ohio coupon bonds held by any person, 3147
business, or state or other government, political subdivision, 3148
agency, or instrumentality, and all proceeds thereof, shall be 3149

presumed abandoned in this state and constitute unclaimed funds 3150
under this chapter if both of the following apply: 3151

(1) The owner of the state of Ohio coupon bond or interest 3152
coupon is unknown to the treasurer of state. 3153

(2) The state of Ohio coupon bond's principal or interest 3154
has remained unclaimed and unredeemed for three years after 3155
final maturity, call date, interest payment date, or other 3156
payment date. 3157

(C) State of Ohio coupon bonds that are presumed abandoned 3158
and constitute unclaimed funds under division (B) of this 3159
section, including bonds in the possession of the director of 3160
commerce, shall escheat to the state three years after becoming 3161
abandoned and unclaimed property. All property rights and legal 3162
title to and ownership of such bonds or interest coupons or 3163
proceeds from such bonds or interest coupons, including all 3164
rights, powers, and privileges of survivorship of any owner, co- 3165
owner, or beneficiary, shall vest solely in this state as 3166
provided in divisions (D) to (H) of this section. 3167

(D) If, within one hundred eighty days after the three- 3168
year period prescribed under division (C) of this section, no 3169
claim has been filed under this chapter for the bond, the 3170
director shall commence a civil action in a court of competent 3171
jurisdiction for a determination that the bond escheats to the 3172
state. The director may postpone the commencement of an action 3173
until a sufficient number of bonds have accumulated in the 3174
director's custody to justify the expense of the proceedings. 3175

(E) Service by publication shall be made in accordance 3176
with Rule 4.4 of the Rules of Civil Procedure. 3177

(F) If no person files a claim or appears at the hearing 3178

to substantiate a claim or if the court determines that a 3179
claimant is not entitled to the property claimed, and if the 3180
court is satisfied by the evidence that the director has 3181
substantially complied with the laws of this state, the court 3182
shall enter a judgment that the bonds have escheated to the 3183
state and all property rights and legal title to and ownership 3184
of the bonds or the proceeds from the bonds, including all 3185
rights, powers, and privileges of survivorship of any owner, co- 3186
owner, or beneficiary, have vested solely in the state. 3187

(G) The director shall redeem the state of Ohio coupon 3188
bonds escheated to the state by judgment of the court. When the 3189
proceeds that have escheated have been recovered by the 3190
director, the director shall pay all costs incident to the 3191
collection and recovery of the proceeds from the redemption of 3192
the bonds and disburse the remaining balance of the proceeds in 3193
the manner provided under section 169.05 of the Revised Code for 3194
all other unclaimed funds. 3195

(H) Notwithstanding section 169.08 of the Revised Code, 3196
any person claiming a state of Ohio coupon bond that has 3197
escheated to the state under this section, or for the proceeds 3198
from the bond, may file a claim with the director. Upon 3199
providing sufficient proof of the validity of the person's 3200
claim, the director may, in the director's discretion, pay the 3201
claim less any expenses and costs incurred by the state in 3202
securing full title and ownership of the property by escheat. If 3203
payment has been made to a claimant, no action thereafter may be 3204
maintained by any other claimant against the state or any 3205
officer of the state, for or on account of the payment of the 3206
claim. 3207

Sec. 718.01. Any term used in this chapter that is not 3208

otherwise defined in this chapter has the same meaning as when 3209
used in a comparable context in laws of the United States 3210
relating to federal income taxation or in Title LVII of the 3211
Revised Code, unless a different meaning is clearly required. 3212
Except as provided in section 718.81 of the Revised Code, if a 3213
term used in this chapter that is not otherwise defined in this 3214
chapter is used in a comparable context in both the laws of the 3215
United States relating to federal income tax and in Title LVII 3216
of the Revised Code and the use is not consistent, then the use 3217
of the term in the laws of the United States relating to federal 3218
income tax shall control over the use of the term in Title LVII 3219
of the Revised Code. 3220

Except as otherwise provided in section 718.81 of the 3221
Revised Code, as used in this chapter: 3222

(A) (1) "Municipal taxable income" means the following: 3223

(a) For a person other than an individual, income 3224
apportioned or situated to the municipal corporation under 3225
section 718.02 of the Revised Code, as applicable, reduced by 3226
any pre-2017 net operating loss carryforward available to the 3227
person for the municipal corporation. 3228

(b) (i) For an individual who is a resident of a municipal 3229
corporation other than a qualified municipal corporation, income 3230
reduced by exempt income to the extent otherwise included in 3231
income, then reduced as provided in division (A) (2) of this 3232
section, and further reduced by any pre-2017 net operating loss 3233
carryforward available to the individual for the municipal 3234
corporation. 3235

(ii) For an individual who is a resident of a qualified 3236
municipal corporation, Ohio adjusted gross income reduced by 3237

income exempted, and increased by deductions excluded, by the 3238
qualified municipal corporation from the qualified municipal 3239
corporation's tax. If a qualified municipal corporation, on or 3240
before December 31, 2013, exempts income earned by individuals 3241
who are not residents of the qualified municipal corporation and 3242
net profit of persons that are not wholly located within the 3243
qualified municipal corporation, such individual or person shall 3244
have no municipal taxable income for the purposes of the tax 3245
levied by the qualified municipal corporation and may be 3246
exempted by the qualified municipal corporation from the 3247
requirements of section 718.03 of the Revised Code. 3248

(c) For an individual who is a nonresident of a municipal 3249
corporation, income reduced by exempt income to the extent 3250
otherwise included in income and then, as applicable, 3251
apportioned or situated to the municipal corporation under 3252
section 718.02 of the Revised Code, then reduced as provided in 3253
division (A)(2) of this section, and further reduced by any pre- 3254
2017 net operating loss carryforward available to the individual 3255
for the municipal corporation. 3256

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

taxpayer's performance of personal services in that nonresident	3269
municipal corporation.	3270
(B) "Income" means the following:	3271
(1) (a) For residents, all income, salaries, qualifying	3272
wages, commissions, and other compensation from whatever source	3273
earned or received by the resident, including the resident's	3274
distributive share of the net profit of pass-through entities	3275
owned directly or indirectly by the resident and any net profit	3276
of the resident, except as provided in division (D) (5) of this	3277
section.	3278
(b) For the purposes of division (B) (1) (a) of this	3279
section:	3280
(i) Any net operating loss of the resident incurred in the	3281
taxable year and the resident's distributive share of any net	3282
operating loss generated in the same taxable year and	3283
attributable to the resident's ownership interest in a pass-	3284
through entity shall be allowed as a deduction, for that taxable	3285
year and the following five taxable years, against any other net	3286
profit of the resident or the resident's distributive share of	3287
any net profit attributable to the resident's ownership interest	3288
in a pass-through entity until fully utilized, subject to	3289
division (B) (1) (d) of this section;	3290
(ii) The resident's distributive share of the net profit	3291
of each pass-through entity owned directly or indirectly by the	3292
resident shall be calculated without regard to any net operating	3293
loss that is carried forward by that entity from a prior taxable	3294
year and applied to reduce the entity's net profit for the	3295
current taxable year.	3296
(c) Division (B) (1) (b) of this section does not apply with	3297

respect to any net profit or net operating loss attributable to 3298
an ownership interest in an S corporation unless shareholders' 3299
distributive shares of net profits from S corporations are 3300
subject to tax in the municipal corporation as provided in 3301
division (C) (14) (b) or (c) of this section. 3302

(d) Any amount of a net operating loss used to reduce a 3303
taxpayer's net profit for a taxable year shall reduce the amount 3304
of net operating loss that may be carried forward to any 3305
subsequent year for use by that taxpayer. In no event shall the 3306
cumulative deductions for all taxable years with respect to a 3307
taxpayer's net operating loss exceed the original amount of that 3308
net operating loss available to that taxpayer. 3309

(2) In the case of nonresidents, all income, salaries, 3310
qualifying wages, commissions, and other compensation from 3311
whatever source earned or received by the nonresident for work 3312
done, services performed or rendered, or activities conducted in 3313
the municipal corporation, including any net profit of the 3314
nonresident, but excluding the nonresident's distributive share 3315
of the net profit or loss of only pass-through entities owned 3316
directly or indirectly by the nonresident. 3317

(3) For taxpayers that are not individuals, net profit of 3318
the taxpayer; 3319

(4) Lottery, sweepstakes, gambling and sports winnings, 3320
winnings from games of chance, and prizes and awards. If the 3321
taxpayer is a professional gambler for federal income tax 3322
purposes, the taxpayer may deduct related wagering losses and 3323
expenses to the extent authorized under the Internal Revenue 3324
Code and claimed against such winnings. 3325

(C) "Exempt income" means all of the following: 3326

(1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;	3327 3328 3329
(2) (a) Except as provided in division (C) (2) (b) of this section, intangible income;	3330 3331
(b) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.	3332 3333 3334 3335 3336 3337 3338
(3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C) (3) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o) (2) of the Internal Revenue Code.	3339 3340 3341 3342 3343 3344 3345 3346 3347 3348 3349 3350
(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.	3351 3352 3353 3354
(5) Compensation paid under section 3501.28 or 3501.36 of	3355

the Revised Code to a person serving as a precinct election 3356
official to the extent that such compensation does not exceed 3357
one thousand dollars for the taxable year. Such compensation in 3358
excess of one thousand dollars for the taxable year may be 3359
subject to taxation by a municipal corporation. A municipal 3360
corporation shall not require the payer of such compensation to 3361
withhold any tax from that compensation. 3362

(6) Dues, contributions, and similar payments received by 3363
charitable, religious, educational, or literary organizations or 3364
labor unions, lodges, and similar organizations; 3365

(7) Alimony and child support received; 3366

(8) Compensation for personal injuries or for damages to 3367
property from insurance proceeds or otherwise, excluding 3368
compensation paid for lost salaries or wages or compensation 3369
from punitive damages; 3370

(9) Income of a public utility when that public utility is 3371
subject to the tax levied under section 5727.24 or 5727.30 of 3372
the Revised Code. Division (C) (9) of this section does not apply 3373
for purposes of Chapter 5745. of the Revised Code. 3374

(10) Gains from involuntary conversions, interest on 3375
federal obligations, items of income subject to a tax levied by 3376
the state and that a municipal corporation is specifically 3377
prohibited by law from taxing, and income of a decedent's estate 3378
during the period of administration except such income from the 3379
operation of a trade or business; 3380

(11) Compensation or allowances excluded from federal 3381
gross income under section 107 of the Internal Revenue Code; 3382

(12) Employee compensation that is not qualifying wages as 3383
defined in division (R) of this section; 3384

(13) Compensation paid to a person employed within the 3385
boundaries of a United States air force base under the 3386
jurisdiction of the United States air force that is used for the 3387
housing of members of the United States air force and is a 3388
center for air force operations, unless the person is subject to 3389
taxation because of residence or domicile. If the compensation 3390
is subject to taxation because of residence or domicile, tax on 3391
such income shall be payable only to the municipal corporation 3392
of residence or domicile. 3393

(14) (a) Except as provided in division (C) (14) (b) or (c) 3394
of this section, an S corporation shareholder's distributive 3395
share of net profits of the S corporation, other than any part 3396
of the distributive share of net profits that represents wages 3397
as defined in section 3121(a) of the Internal Revenue Code or 3398
net earnings from self-employment as defined in section 1402(a) 3399
of the Internal Revenue Code. 3400

(b) If, pursuant to division (H) of former section 718.01 3401
of the Revised Code as it existed before March 11, 2004, a 3402
majority of the electors of a municipal corporation voted in 3403
favor of the question at an election held on November 4, 2003, 3404
the municipal corporation may continue after 2002 to tax an S 3405
corporation shareholder's distributive share of net profits of 3406
an S corporation. 3407

(c) If, on December 6, 2002, a municipal corporation was 3408
imposing, assessing, and collecting a tax on an S corporation 3409
shareholder's distributive share of net profits of the S 3410
corporation to the extent the distributive share would be 3411
allocated or apportioned to this state under divisions (B) (1) 3412
and (2) of section 5733.05 of the Revised Code if the S 3413
corporation were a corporation subject to taxes imposed under 3414

Chapter 5733. of the Revised Code, the municipal corporation may 3415
continue to impose the tax on such distributive shares to the 3416
extent such shares would be so allocated or apportioned to this 3417
state only until December 31, 2004, unless a majority of the 3418
electors of the municipal corporation voting on the question of 3419
continuing to tax such shares after that date voted in favor of 3420
that question at an election held November 2, 2004. If a 3421
majority of those electors voted in favor of the question, the 3422
municipal corporation may continue after December 31, 2004, to 3423
impose the tax on such distributive shares only to the extent 3424
such shares would be so allocated or apportioned to this state. 3425

(d) A municipal corporation shall be deemed to have 3426
elected to tax S corporation shareholders' distributive shares 3427
of net profits of the S corporation in the hands of the 3428
shareholders if a majority of the electors of a municipal 3429
corporation voted in favor of a question at an election held 3430
under division (C) (14) (b) or (c) of this section. The municipal 3431
corporation shall specify by resolution or ordinance that the 3432
tax applies to the distributive share of a shareholder of an S 3433
corporation in the hands of the shareholder of the S 3434
corporation. 3435

(15) To the extent authorized under a resolution or 3436
ordinance adopted by a municipal corporation before January 1, 3437
2016, all or a portion of the income of individuals or a class 3438
of individuals under eighteen years of age. 3439

(16) (a) Except as provided in divisions (C) (16) (b), (c), 3440
and (d) of this section, qualifying wages described in division 3441
(B) (1) or (E) of section 718.011 of the Revised Code to the 3442
extent the qualifying wages are not subject to withholding for 3443
the municipal corporation under either of those divisions. 3444

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

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

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

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

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

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

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

section does not apply under either of the following 3474
circumstances: 3475

(i) The individual's base of operation is located in the 3476
municipal corporation. 3477

(ii) The individual is a professional athlete, 3478
professional entertainer, or public figure, and the compensation 3479
is paid for the performance of services in the individual's 3480
capacity as a professional athlete, professional entertainer, or 3481
public figure. For purposes of division (C) (17) (b) (ii) of this 3482
section, "professional athlete," "professional entertainer," and 3483
"public figure" have the same meanings as in section 718.011 of 3484
the Revised Code. 3485

(c) Compensation to which division (C) (17) of this section 3486
applies shall be treated as earned or received at the 3487
individual's base of operation. If the individual does not have 3488
a base of operation, the compensation shall be treated as earned 3489
or received where the individual is domiciled. 3490

(d) For purposes of division (C) (17) of this section, 3491
"base of operation" means the location where an individual owns 3492
or rents an office, storefront, or similar facility to which the 3493
individual regularly reports and at which the individual 3494
regularly performs personal services for compensation. 3495

(18) Compensation paid to a person for personal services 3496
performed for a political subdivision on property owned by the 3497
political subdivision, regardless of whether the compensation is 3498
received by an employee of the subdivision or another person 3499
performing services for the subdivision under a contract with 3500
the subdivision, if the property on which services are performed 3501
is annexed to a municipal corporation pursuant to section 3502

709.023 of the Revised Code on or after March 27, 2013, unless 3503
the person is subject to such taxation because of residence. If 3504
the compensation is subject to taxation because of residence, 3505
municipal income tax shall be payable only to the municipal 3506
corporation of residence. 3507

(19) In the case of a tax administered, collected, and 3508
enforced by a municipal corporation pursuant to an agreement 3509
with the board of directors of a joint economic development 3510
district under section 715.72 of the Revised Code, the net 3511
profits of a business, and the income of the employees of that 3512
business, exempted from the tax under division (Q) of that 3513
section. 3514

(20) All of the following: 3515

(a) Income derived from disaster work conducted in this 3516
state by an out-of-state disaster business during a disaster 3517
response period pursuant to a qualifying solicitation received 3518
by the business; 3519

(b) Income of a qualifying employee described in division 3520
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 3521
such income is derived from disaster work conducted in this 3522
state by the employee during a disaster response period pursuant 3523
to a qualifying solicitation received by the employee's 3524
employer; 3525

(c) Income of a qualifying employee described in division 3526
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 3527
such income is derived from disaster work conducted in this 3528
state by the employee during a disaster response period on 3529
critical infrastructure owned or used by the employee's 3530
employer. 3531

(21) Income the taxation of which is prohibited by the 3532
constitution or laws of the United States. 3533

Any item of income that is exempt income of a pass-through 3534
entity under division (C) of this section is exempt income of 3535
each owner of the pass-through entity to the extent of that 3536
owner's distributive or proportionate share of that item of the 3537
entity's income. 3538

(D) (1) "Net profit" for a person who is an individual 3539
means the individual's net profit required to be reported on 3540
schedule C, schedule E, or schedule F reduced by any net 3541
operating loss carried forward. For the purposes of division (D) 3542
(1) of this section, the net operating loss carried forward 3543
shall be calculated and deducted in the same manner as provided 3544
in division (D) (3) of this section. 3545

(2) "Net profit" for a person other than an individual 3546
means adjusted federal taxable income reduced by any net 3547
operating loss incurred by the person in a taxable year 3548
beginning on or after January 1, 2017, subject to the 3549
limitations of division (D) (3) of this section. 3550

(3) (a) The amount of such net operating loss shall be 3551
deducted from net profit to the extent necessary to reduce 3552
municipal taxable income to zero, with any remaining unused 3553
portion of the net operating loss carried forward to not more 3554
than five consecutive taxable years following the taxable year 3555
in which the loss was incurred, but in no case for more years 3556
than necessary for the deduction to be fully utilized. 3557

(b) No person shall use the deduction allowed by division 3558
(D) (3) of this section to offset qualifying wages. 3559

(c) (i) For taxable years beginning in 2018, 2019, 2020, 3560

2021, or 2022, a person may not deduct, for purposes of an 3561
income tax levied by a municipal corporation that levies an 3562
income tax before January 1, 2016, more than fifty per cent of 3563
the amount of the deduction otherwise allowed by division (D) (3) 3564
of this section. 3565

(ii) For taxable years beginning in 2023 or thereafter, a 3566
person may deduct, for purposes of an income tax levied by a 3567
municipal corporation that levies an income tax before January 3568
1, 2016, the full amount allowed by division (D) (3) of this 3569
section without regard to the limitation of division (D) (3) (b) 3570
(i) of this section. 3571

(d) Any pre-2017 net operating loss carryforward deduction 3572
that is available may be utilized before a taxpayer may deduct 3573
any amount pursuant to division (D) (3) of this section. 3574

(e) Nothing in division (D) (3) (c) (i) of this section 3575
precludes a person from carrying forward, for use with respect 3576
to any return filed for a taxable year beginning after 2018, any 3577
amount of net operating loss that was not fully utilized by 3578
operation of division (D) (3) (c) (i) of this section. To the 3579
extent that an amount of net operating loss that was not fully 3580
utilized in one or more taxable years by operation of division 3581
(D) (3) (c) (i) of this section is carried forward for use with 3582
respect to a return filed for a taxable year beginning in 2019, 3583
2020, 2021, or 2022, the limitation described in division (D) (3) 3584
(c) (i) of this section shall apply to the amount carried 3585
forward. 3586

(4) For the purposes of this chapter, and notwithstanding 3587
division (D) (2) of this section, net profit of a disregarded 3588
entity shall not be taxable as against that disregarded entity, 3589
but shall instead be included in the net profit of the owner of 3590

the disregarded entity. 3591

(5) For the purposes of this chapter, and notwithstanding 3592
any other provision of this chapter, the net profit of a 3593
publicly traded partnership that makes the election described in 3594
division (D) (5) of this section shall be taxed as if the 3595
partnership were a C corporation, and shall not be treated as 3596
the net profit or income of any owner of the partnership. 3597

A publicly traded partnership that is treated as a 3598
partnership for federal income tax purposes and that is subject 3599
to tax on its net profits in one or more municipal corporations 3600
in this state may elect to be treated as a C corporation for 3601
municipal income tax purposes. The publicly traded partnership 3602
shall make the election in every municipal corporation in which 3603
the partnership is subject to taxation on its net profits. The 3604
election shall be made on the annual tax return filed in each 3605
such municipal corporation. The publicly traded partnership 3606
shall not be required to file the election with any municipal 3607
corporation in which the partnership is not subject to taxation 3608
on its net profits, but division (D) (5) of this section applies 3609
to all municipal corporations in which an individual owner of 3610
the partnership resides. 3611

(E) "Adjusted federal taxable income," for a person 3612
required to file as a C corporation, or for a person that has 3613
elected to be taxed as a C corporation under division (D) (5) of 3614
this section, means a C corporation's federal taxable income 3615
before net operating losses and special deductions as determined 3616
under the Internal Revenue Code, adjusted as follows: 3617

(1) Deduct intangible income to the extent included in 3618
federal taxable income. The deduction shall be allowed 3619
regardless of whether the intangible income relates to assets 3620

used in a trade or business or assets held for the production of 3621
income. 3622

(2) Add an amount equal to five per cent of intangible 3623
income deducted under division (E) (1) of this section, but 3624
excluding that portion of intangible income directly related to 3625
the sale, exchange, or other disposition of property described 3626
in section 1221 of the Internal Revenue Code; 3627

(3) Add any losses allowed as a deduction in the 3628
computation of federal taxable income if the losses directly 3629
relate to the sale, exchange, or other disposition of an asset 3630
described in section 1221 or 1231 of the Internal Revenue Code; 3631

(4) (a) Except as provided in division (E) (4) (b) of this 3632
section, deduct income and gain included in federal taxable 3633
income to the extent the income and gain directly relate to the 3634
sale, exchange, or other disposition of an asset described in 3635
section 1221 or 1231 of the Internal Revenue Code; 3636

(b) Division (E) (4) (a) of this section does not apply to 3637
the extent the income or gain is income or gain described in 3638
section 1245 or 1250 of the Internal Revenue Code. 3639

(5) Add taxes on or measured by net income allowed as a 3640
deduction in the computation of federal taxable income; 3641

(6) In the case of a real estate investment trust or 3642
regulated investment company, add all amounts with respect to 3643
dividends to, distributions to, or amounts set aside for or 3644
credited to the benefit of investors and allowed as a deduction 3645
in the computation of federal taxable income; 3646

(7) Deduct, to the extent not otherwise deducted or 3647
excluded in computing federal taxable income, any income derived 3648
from a transfer agreement or from the enterprise transferred 3649

under that agreement under section 4313.02 of the Revised Code; 3650

(8) Deduct exempt income to the extent not otherwise 3651
deducted or excluded in computing adjusted federal taxable 3652
income. 3653

(9) Deduct any net profit of a pass-through entity owned 3654
directly or indirectly by the taxpayer and included in the 3655
taxpayer's federal taxable income unless an affiliated group of 3656
corporations includes that net profit in the group's federal 3657
taxable income in accordance with division (E) (3) (b) of section 3658
718.06 of the Revised Code. 3659

(10) Add any loss incurred by a pass-through entity owned 3660
directly or indirectly by the taxpayer and included in the 3661
taxpayer's federal taxable income unless an affiliated group of 3662
corporations includes that loss in the group's federal taxable 3663
income in accordance with division (E) (3) (b) of section 718.06 3664
of the Revised Code. 3665

If the taxpayer is not a C corporation, is not a 3666
disregarded entity that has made the election described in 3667
division (L) (2) of this section, is not a publicly traded 3668
partnership that has made the election described in division (D) 3669
(5) of this section, and is not an individual, the taxpayer 3670
shall compute adjusted federal taxable income under this section 3671
as if the taxpayer were a C corporation, except guaranteed 3672
payments and other similar amounts paid or accrued to a partner, 3673
former partner, shareholder, former shareholder, member, or 3674
former member shall not be allowed as a deductible expense 3675
unless such payments are a pension or retirement benefit payment 3676
paid to a retired partner, retired shareholder, or retired 3677
member or are in consideration for the use of capital and 3678
treated as payment of interest under section 469 of the Internal 3679

Revenue Code or United States treasury regulations. Amounts paid 3680
or accrued to a qualified self-employed retirement plan with 3681
respect to a partner, former partner, shareholder, former 3682
shareholder, member, or former member of the taxpayer, amounts 3683
paid or accrued to or for health insurance for a partner, former 3684
partner, shareholder, former shareholder, member, or former 3685
member, and amounts paid or accrued to or for life insurance for 3686
a partner, former partner, shareholder, former shareholder, 3687
member, or former member shall not be allowed as a deduction. 3688

Nothing in division (E) of this section shall be construed 3689
as allowing the taxpayer to add or deduct any amount more than 3690
once or shall be construed as allowing any taxpayer to deduct 3691
any amount paid to or accrued for purposes of federal self- 3692
employment tax. 3693

(F) "Schedule C" means internal revenue service schedule C 3694
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3695
Code. 3696

(G) "Schedule E" means internal revenue service schedule E 3697
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3698
Code. 3699

(H) "Schedule F" means internal revenue service schedule F 3700
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 3701
Code. 3702

(I) "Internal Revenue Code" has the same meaning as in 3703
section 5747.01 of the Revised Code. 3704

(J) "Resident" means an individual who is domiciled in the 3705
municipal corporation as determined under section 718.012 of the 3706
Revised Code. 3707

(K) "Nonresident" means an individual that is not a 3708

resident. 3709

(L) (1) "Taxpayer" means a person subject to a tax levied 3710
on income by a municipal corporation in accordance with this 3711
chapter. "Taxpayer" does not include a grantor trust or, except 3712
as provided in division (L) (2) (a) of this section, a disregarded 3713
entity. 3714

(2) (a) A single member limited liability company that is a 3715
disregarded entity for federal tax purposes may be a separate 3716
taxpayer from its single member in all Ohio municipal 3717
corporations in which it either filed as a separate taxpayer or 3718
did not file for its taxable year ending in 2003, if all of the 3719
following conditions are met: 3720

(i) The limited liability company's single member is also 3721
a limited liability company. 3722

(ii) The limited liability company and its single member 3723
were formed and doing business in one or more Ohio municipal 3724
corporations for at least five years before January 1, 2004. 3725

(iii) Not later than December 31, 2004, the limited 3726
liability company and its single member each made an election to 3727
be treated as a separate taxpayer under division (L) of this 3728
section as this section existed on December 31, 2004. 3729

(iv) The limited liability company was not formed for the 3730
purpose of evading or reducing Ohio municipal corporation income 3731
tax liability of the limited liability company or its single 3732
member. 3733

(v) The Ohio municipal corporation that was the primary 3734
place of business of the sole member of the limited liability 3735
company consented to the election. 3736

(b) For purposes of division (L) (2) (a) (v) of this section, 3737
a municipal corporation was the primary place of business of a 3738
limited liability company if, for the limited liability 3739
company's taxable year ending in 2003, its income tax liability 3740
was greater in that municipal corporation than in any other 3741
municipal corporation in Ohio, and that tax liability to that 3742
municipal corporation for its taxable year ending in 2003 was at 3743
least four hundred thousand dollars. 3744

(M) "Person" includes individuals, firms, companies, joint 3745
stock companies, business trusts, estates, trusts, partnerships, 3746
limited liability partnerships, limited liability companies, 3747
associations, C corporations, S corporations, governmental 3748
entities, and any other entity. 3749

(N) "Pass-through entity" means a partnership not treated 3750
as an association taxable as a C corporation for federal income 3751
tax purposes, a limited liability company not treated as an 3752
association taxable as a C corporation for federal income tax 3753
purposes, an S corporation, or any other class of entity from 3754
which the income or profits of the entity are given pass-through 3755
treatment for federal income tax purposes. "Pass-through entity" 3756
does not include a trust, estate, grantor of a grantor trust, or 3757
disregarded entity. 3758

(O) "S corporation" means a person that has made an 3759
election under subchapter S of Chapter 1 of Subtitle A of the 3760
Internal Revenue Code for its taxable year. 3761

(P) "Single member limited liability company" means a 3762
limited liability company that has one direct member. 3763

(Q) "Limited liability company" means a limited liability 3764
company formed under former Chapter 1705. ~~or of the Revised Code~~ 3765

as that chapter existed prior to February 11, 2022, Chapter 3766
1706. of the Revised Code, or ~~under~~ the laws of another state. 3767

(R) "Qualifying wages" means wages, as defined in section 3768
3121(a) of the Internal Revenue Code, without regard to any wage 3769
limitations, adjusted as follows: 3770

(1) Deduct the following amounts: 3771

(a) Any amount included in wages if the amount constitutes 3772
compensation attributable to a plan or program described in 3773
section 125 of the Internal Revenue Code. 3774

(b) Any amount included in wages if the amount constitutes 3775
payment on account of a disability related to sickness or an 3776
accident paid by a party unrelated to the employer, agent of an 3777
employer, or other payer. 3778

(c) Any amount attributable to a nonqualified deferred 3779
compensation plan or program described in section 3121(v) (2) (C) 3780
of the Internal Revenue Code if the compensation is included in 3781
wages and the municipal corporation has, by resolution or 3782
ordinance adopted before January 1, 2016, exempted the amount 3783
from withholding and tax. 3784

(d) Any amount included in wages if the amount arises from 3785
the sale, exchange, or other disposition of a stock option, the 3786
exercise of a stock option, or the sale, exchange, or other 3787
disposition of stock purchased under a stock option and the 3788
municipal corporation has, by resolution or ordinance adopted 3789
before January 1, 2016, exempted the amount from withholding and 3790
tax. 3791

(e) Any amount included in wages that is exempt income. 3792

(2) Add the following amounts: 3793

(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.	3794 3795
(b) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R) (2) (b) of this section applies only to those amounts constituting ordinary income.	3796 3797 3798 3799 3800 3801 3802 3803
(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (R) (2) (c) of this section applies only to employee contributions and employee deferrals.	3804 3805 3806 3807
(d) Any amount that is supplemental unemployment compensation benefits described in section 3402(o) (2) of the Internal Revenue Code and not included in wages.	3808 3809 3810
(e) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a) (8) of the Internal Revenue Code.	3811 3812 3813
(f) Any amount not included in wages if all of the following apply:	3814 3815
(i) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;	3816 3817 3818 3819 3820 3821 3822

(ii) For no preceding taxable year did the amount 3823
constitute wages as defined in section 3121(a) of the Internal 3824
Revenue Code; 3825

(iii) For no succeeding taxable year will the amount 3826
constitute wages; and 3827

(iv) For any taxable year the amount has not otherwise 3828
been added to wages pursuant to either division (R) (2) of this 3829
section or section 718.03 of the Revised Code, as that section 3830
existed before the effective date of H.B. 5 of the 130th general 3831
assembly, March 23, 2015. 3832

(S) "Intangible income" means income of any of the 3833
following types: income yield, interest, capital gains, 3834
dividends, or other income arising from the ownership, sale, 3835
exchange, or other disposition of intangible property including, 3836
but not limited to, investments, deposits, money, or credits as 3837
those terms are defined in Chapter 5701. of the Revised Code, 3838
and patents, copyrights, trademarks, tradenames, investments in 3839
real estate investment trusts, investments in regulated 3840
investment companies, and appreciation on deferred compensation. 3841
"Intangible income" does not include prizes, awards, or other 3842
income associated with any lottery winnings, gambling winnings, 3843
or other similar games of chance. 3844

(T) "Taxable year" means the corresponding tax reporting 3845
period as prescribed for the taxpayer under the Internal Revenue 3846
Code. 3847

(U) (1) "Tax administrator" means, subject to division (U) 3848
(2) of this section, the individual charged with direct 3849
responsibility for administration of an income tax levied by a 3850
municipal corporation in accordance with this chapter, and also 3851

includes the following: 3852

(a) A municipal corporation acting as the agent of another 3853
municipal corporation; 3854

(b) A person retained by a municipal corporation to 3855
administer a tax levied by the municipal corporation, but only 3856
if the municipal corporation does not compensate the person in 3857
whole or in part on a contingency basis; 3858

(c) The central collection agency or the regional income 3859
tax agency or their successors in interest, or another entity 3860
organized to perform functions similar to those performed by the 3861
central collection agency and the regional income tax agency. 3862

(2) "Tax administrator" does not include the tax 3863
commissioner. 3864

(3) A private individual or entity serving in any position 3865
described in division (U) (1) (b) or (c) of this section shall 3866
have no access to criminal history record information. 3867

(V) "Employer" means a person that is an employer for 3868
federal income tax purposes. 3869

(W) "Employee" means an individual who is an employee for 3870
federal income tax purposes. 3871

(X) "Other payer" means any person, other than an 3872
individual's employer or the employer's agent, that pays an 3873
individual any amount included in the federal gross income of 3874
the individual. "Other payer" includes casino operators and 3875
video lottery terminal sales agents. 3876

(Y) "Calendar quarter" means the three-month period ending 3877
on the last day of March, June, September, or December. 3878

(Z) "Form 2106" means internal revenue service form 2106	3879
filed by a taxpayer pursuant to the Internal Revenue Code.	3880
(AA) "Municipal corporation" includes a joint economic	3881
development district or joint economic development zone that	3882
levies an income tax under section 715.691, 715.70, 715.71, or	3883
715.72 of the Revised Code.	3884
(BB) "Disregarded entity" means a single member limited	3885
liability company, a qualifying subchapter S subsidiary, or	3886
another entity if the company, subsidiary, or entity is a	3887
disregarded entity for federal income tax purposes.	3888
(CC) "Generic form" means an electronic or paper form that	3889
is not prescribed by a particular municipal corporation and that	3890
is designed for reporting taxes withheld by an employer, agent	3891
of an employer, or other payer, estimated municipal income	3892
taxes, or annual municipal income tax liability or for filing a	3893
refund claim.	3894
(DD) "Tax return preparer" means any individual described	3895
in section 7701(a)(36) of the Internal Revenue Code and 26	3896
C.F.R. 301.7701-15.	3897
(EE) "Ohio business gateway" means the online computer	3898
network system ⁷ created under section 125.30 of the Revised	3899
Code, that allows persons to electronically file business reply	3900
forms with state agencies and includes <u>or</u> any successor	3901
electronic filing and payment system.	3902
(FF) "Local board of tax review" and "board of tax review"	3903
mean the entity created under section 718.11 of the Revised	3904
Code.	3905
(GG) "Net operating loss" means a loss incurred by a	3906
person in the operation of a trade or business. "Net operating	3907

loss" does not include unutilized losses resulting from basis 3908
limitations, at-risk limitations, or passive activity loss 3909
limitations. 3910

(HH) "Casino operator" and "casino facility" have the same 3911
meanings as in section 3772.01 of the Revised Code. 3912

(II) "Video lottery terminal" has the same meaning as in 3913
section 3770.21 of the Revised Code. 3914

(JJ) "Video lottery terminal sales agent" means a lottery 3915
sales agent licensed under Chapter 3770. of the Revised Code to 3916
conduct video lottery terminals on behalf of the state pursuant 3917
to section 3770.21 of the Revised Code. 3918

(KK) "Postal service" means the United States postal 3919
service. 3920

(LL) "Certified mail," "express mail," "United States 3921
mail," "postal service," and similar terms include any delivery 3922
service authorized pursuant to section 5703.056 of the Revised 3923
Code. 3924

(MM) "Postmark date," "date of postmark," and similar 3925
terms include the date recorded and marked in the manner 3926
described in division (B) (3) of section 5703.056 of the Revised 3927
Code. 3928

(NN) "Related member" means a person that, with respect to 3929
the taxpayer during all or any portion of the taxable year, is 3930
either a related entity, a component member as defined in 3931
section 1563(b) of the Internal Revenue Code, or a person to or 3932
from whom there is attribution of stock ownership in accordance 3933
with section 1563(e) of the Internal Revenue Code except, for 3934
purposes of determining whether a person is a related member 3935
under this division, "twenty per cent" shall be substituted for 3936

"5 percent" wherever "5 percent" appears in section 1563(e) of 3937
the Internal Revenue Code. 3938

(OO) "Related entity" means any of the following: 3939

(1) An individual stockholder, or a member of the 3940
stockholder's family enumerated in section 318 of the Internal 3941
Revenue Code, if the stockholder and the members of the 3942
stockholder's family own directly, indirectly, beneficially, or 3943
constructively, in the aggregate, at least fifty per cent of the 3944
value of the taxpayer's outstanding stock; 3945

(2) A stockholder, or a stockholder's partnership, estate, 3946
trust, or corporation, if the stockholder and the stockholder's 3947
partnerships, estates, trusts, or corporations own directly, 3948
indirectly, beneficially, or constructively, in the aggregate, 3949
at least fifty per cent of the value of the taxpayer's 3950
outstanding stock; 3951

(3) A corporation, or a party related to the corporation 3952
in a manner that would require an attribution of stock from the 3953
corporation to the party or from the party to the corporation 3954
under division (OO) (4) of this section, provided the taxpayer 3955
owns directly, indirectly, beneficially, or constructively, at 3956
least fifty per cent of the value of the corporation's 3957
outstanding stock; 3958

(4) The attribution rules described in section 318 of the 3959
Internal Revenue Code apply for the purpose of determining 3960
whether the ownership requirements in divisions (OO) (1) to (3) 3961
of this section have been met. 3962

(PP) (1) "Assessment" means a written finding by the tax 3963
administrator that a person has underpaid municipal income tax, 3964
or owes penalty and interest, or any combination of tax, 3965

penalty, or interest, to the municipal corporation that 3966
commences the person's time limitation for making an appeal to 3967
the local board of tax review pursuant to section 718.11 of the 3968
Revised Code, and has "ASSESSMENT" written in all capital 3969
letters at the top of such finding. 3970

(2) "Assessment" does not include an informal notice 3971
denying a request for refund issued under division (B)(3) of 3972
section 718.19 of the Revised Code, a billing statement 3973
notifying a taxpayer of current or past-due balances owed to the 3974
municipal corporation, a tax administrator's request for 3975
additional information, a notification to the taxpayer of 3976
mathematical errors, or a tax administrator's other written 3977
correspondence to a person or taxpayer that does not meet the 3978
criteria prescribed by division (PP)(1) of this section. 3979

(QQ) "Taxpayers' rights and responsibilities" means the 3980
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 3981
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 3982
Revised Code and the responsibilities of taxpayers to file, 3983
report, withhold, remit, and pay municipal income tax and 3984
otherwise comply with Chapter 718. of the Revised Code and 3985
resolutions, ordinances, and rules adopted by a municipal 3986
corporation for the imposition and administration of a municipal 3987
income tax. 3988

(RR) "Qualified municipal corporation" means a municipal 3989
corporation that, by resolution or ordinance adopted on or 3990
before December 31, 2011, adopted Ohio adjusted gross income, as 3991
defined by section 5747.01 of the Revised Code, as the income 3992
subject to tax for the purposes of imposing a municipal income 3993
tax. 3994

(SS) (1) "Pre-2017 net operating loss carryforward" means 3995

any net operating loss incurred in a taxable year beginning 3996
before January 1, 2017, to the extent such loss was permitted, 3997
by a resolution or ordinance of the municipal corporation that 3998
was adopted by the municipal corporation before January 1, 2016, 3999
to be carried forward and utilized to offset income or net 4000
profit generated in such municipal corporation in future taxable 4001
years. 4002

(2) For the purpose of calculating municipal taxable 4003
income, any pre-2017 net operating loss carryforward may be 4004
carried forward to any taxable year, including taxable years 4005
beginning in 2017 or thereafter, for the number of taxable years 4006
provided in the resolution or ordinance or until fully utilized, 4007
whichever is earlier. 4008

(TT) "Small employer" means any employer that had total 4009
revenue of less than five hundred thousand dollars during the 4010
preceding taxable year. For purposes of this division, "total 4011
revenue" means receipts of any type or kind, including, but not 4012
limited to, sales receipts; payments; rents; profits; gains, 4013
dividends, and other investment income; compensation; 4014
commissions; premiums; money; property; grants; contributions; 4015
donations; gifts; program service revenue; patient service 4016
revenue; premiums; fees, including premium fees and service 4017
fees; tuition payments; unrelated business revenue; 4018
reimbursements; any type of payment from a governmental unit, 4019
including grants and other allocations; and any other similar 4020
receipts reported for federal income tax purposes or under 4021
generally accepted accounting principles. "Small employer" does 4022
not include the federal government; any state government, 4023
including any state agency or instrumentality; any political 4024
subdivision; or any entity treated as a government for financial 4025
accounting and reporting purposes. 4026

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

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

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

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

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

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

Sec. 1111.04. (A) Prior to soliciting or engaging in trust 4056
business in this state, a trust company shall pledge to the 4057
~~treasurer of state~~ superintendent of financial institutions 4058
interest bearing securities authorized in division (B) of this 4059
section, having a par value, not including unaccrued interest, 4060
of one hundred thousand dollars, and approved by the 4061
~~superintendent of financial institutions~~. The trust company may 4062
pledge the securities either by delivery to the ~~treasurer of~~ 4063
~~state superintendent~~ or by placing the securities with a 4064
qualified trustee for safekeeping to the account of the 4065
~~treasurer of state~~ superintendent of financial institutions, the 4066
corporate fiduciary, and any other person having an interest in 4067
the securities under Chapter 1109. of the Revised Code, as their 4068
respective interests may appear and be asserted by written 4069
notice to or demand upon the qualified trustee or by order of 4070
judgment of a court. 4071

(B) Securities pledged by a trust company to satisfy the 4072
requirements of division (A) of this section shall be one or 4073
more of the following: 4074

(1) Bonds, notes, or other obligations of or guaranteed by 4075
the United States or for which the full faith and credit of the 4076
United States is pledged for the payment of principal and 4077
interest; 4078

(2) Bonds, notes, debentures, or other obligations or 4079
securities issued by any agency or instrumentality of the United 4080
States; 4081

(3) General obligations of this or any other state of the 4082
United States or any subdivision of this or any other state of 4083
the United States. 4084

(C) The ~~treasurer of state~~ superintendent of financial 4085
institutions shall review, approve, and accept delivery of 4086
securities pursuant to this section ~~when accompanied by the~~ 4087
~~superintendent's approval of the securities or the written~~ 4088
~~receipt of a qualified trustee describing the securities and~~ 4089
~~showing the superintendent's approval of the securities,~~ and 4090
shall issue a written acknowledgment of the delivery of the 4091
securities or the qualified trustee's receipt and the 4092
superintendent's approval to the trust company. 4093

(D) The superintendent shall approve securities to be 4094
pledged by a trust company pursuant to this section if the 4095
securities are all of the following: 4096

(1) Interest bearing and of the value required by division 4097
(A) of this section; 4098

(2) Of one or more of the kinds authorized by division (B) 4099
of this section and not a derivative of or merely an interest in 4100
any of those securities; 4101

(3) Not in default. 4102

(E) The ~~treasurer of state~~ superintendent of financial 4103
institutions shall, ~~with the approval of the superintendent,~~ 4104
permit a trust company to pledge securities in substitution for 4105
securities pledged pursuant to this section and the withdrawal 4106
of the securities substituted for so long as the securities 4107
remaining pledged satisfy the requirements of division (A) of 4108
this section. The ~~treasurer of state~~ superintendent shall permit 4109
a trust company to collect interest paid on securities pledged 4110
pursuant to this section so long as the trust company is 4111
solvent. The ~~treasurer of state~~ superintendent shall, ~~with the~~ 4112
~~approval of the superintendent,~~ permit a trust company to 4113

withdraw securities pledged pursuant to this section when the 4114
trust company has ceased to solicit or engage in trust business 4115
in this state. 4116

(F) For purposes of this section, a qualified trustee is a 4117
federal reserve bank, a federal home loan bank, a trust company 4118
as defined in section 1101.01 of the Revised Code, or a national 4119
bank or federal savings association that has pledged securities 4120
pursuant to this section, is authorized to accept and execute 4121
trusts, and is doing business under authority granted by the 4122
office of the comptroller of the currency. However, a national 4123
bank or federal savings association doing business under 4124
authority granted by the office of the comptroller of the 4125
currency or a trust company may not act as a qualified trustee 4126
for securities it or any of its affiliates is pledging pursuant 4127
to this section. 4128

(G) The superintendent, with the approval of the ~~treasurer~~ 4129
~~of state and the attorney general~~, shall prescribe the form of 4130
all receipts and acknowledgments provided for by this section, 4131
and upon request shall furnish a copy of each form, with the 4132
superintendent's certification attached, to each qualified 4133
trustee eligible to hold securities for safekeeping under this 4134
section. 4135

Sec. 1112.12. (A) Prior to transacting any business as a 4136
licensed family trust company, a family trust company shall 4137
pledge to the ~~treasurer of state~~ superintendent of financial 4138
institutions interest-bearing securities authorized in division 4139
(B) of this section, having a par value, not including unaccrued 4140
interest, of one hundred thousand dollars, and approved by the 4141
superintendent ~~of financial institutions~~. The family trust 4142
company may pledge the securities either by delivery to the 4143

~~treasurer of state superintendent~~ or by placing the securities 4144
with a qualified trustee for safekeeping to the account of the 4145
~~treasurer of state superintendent of financial institutions.~~ 4146

(B) Securities pledged by a family trust company to 4147
satisfy the requirements of division (A) of this section shall 4148
be one or more of the following, provided that the bonds or 4149
other obligations are rated at the time of purchase in the three 4150
highest classifications established by at least one nationally 4151
recognized ~~standard statistical rating service organization~~ and 4152
purchased through a registered securities broker or dealer: 4153

(1) Bonds, notes, or other obligations of or guaranteed by 4154
the United States or for which the full faith and credit of the 4155
United States is pledged for the payment of principal and 4156
interest; 4157

(2) Bonds, notes, debentures, or other obligations or 4158
securities issued by any agency or instrumentality of the United 4159
States. 4160

(C) The ~~treasurer of state superintendent of financial~~ 4161
~~institutions shall review, approve, and accept~~ delivery of 4162
securities pursuant to this section ~~when accompanied by the~~ 4163
~~superintendent's approval of the securities or the written~~ 4164
~~receipt of a qualified trustee describing the securities and~~ 4165
~~showing the superintendent's approval of the securities,~~ and 4166
shall issue a written acknowledgment of the delivery of the 4167
securities or the qualified trustee's receipt and the 4168
superintendent's approval to the family trust company. 4169

(D) The superintendent shall approve securities to be 4170
pledged by a family trust company pursuant to this section if 4171
the securities are all of the following: 4172

(1) Interest-bearing and of the value required by division	4173
(A) of this section;	4174
(2) Of one or more of the kinds authorized by division (B)	4175
of this section and not a derivative of or merely an interest in	4176
any of those securities;	4177
(3) Not in default.	4178
(E) The treasurer of state <u>superintendent of financial</u>	4179
<u>institutions</u> shall, with the approval of the superintendent,	4180
permit a family trust company to pledge securities in	4181
substitution for securities pledged pursuant to this section and	4182
the withdrawal of the securities substituted for so long as the	4183
securities remaining pledged satisfy the requirements of	4184
division (A) of this section. The treasurer of state	4185
<u>superintendent</u> shall permit a family trust company to collect	4186
interest paid on securities pledged pursuant to this section so	4187
long as the family trust company is solvent. The treasurer of	4188
state superintendent shall, with the approval of the	4189
superintendent, permit a licensed family trust company to	4190
withdraw securities pledged pursuant to this section when the	4191
family trust company has discontinued its business as a licensed	4192
family trust company in this state.	4193
(F) For purposes of this section, a qualified trustee is a	4194
federal reserve bank, a federal home loan bank, a trust company	4195
as defined in section 1101.01 of the Revised Code, or a bank or	4196
savings association that has pledged securities pursuant to	4197
section 1111.04 of the Revised Code, is authorized to accept and	4198
execute trusts, and is doing business under authority granted by	4199
the comptroller of the currency.	4200
(G) The superintendent, with the approval of the treasurer	4201

~~of state,~~ shall prescribe the form of all receipts and 4202
acknowledgments provided for by this section, and upon request 4203
shall furnish a copy of each form, with the superintendent's 4204
certification attached, to each qualified trustee eligible to 4205
hold securities for safekeeping under this section. 4206

Sec. 1315.54. (A) The attorney general may conduct 4207
investigations within or outside this state to determine if a 4208
money transmitter or person engaged in a trade or business has 4209
failed to file a report required by section 1315.53 of the 4210
Revised Code or has engaged or is engaging in an act, practice, 4211
or transaction that constitutes a violation of a provision of 4212
~~section~~sections 1315.51 to 1315.55 of the Revised Code. 4213

(B) On request of the attorney general, a money 4214
transmitter shall make the money transmitter's books and records 4215
available to the attorney general during normal business hours 4216
for inspection and examination in connection with an 4217
investigation conducted under this section. No person shall 4218
purposely fail to comply with this division. 4219

(C) Any record or other document or information obtained 4220
by the attorney general pursuant to an investigation conducted 4221
under this section is not a public record subject to section 4222
149.43 of the Revised Code and is not subject to disclosure. 4223

(D) This section does not apply to any bank, bank holding 4224
company, or affiliate of a bank or bank holding company, or to 4225
any savings and loan association, savings and loan holding 4226
company, or affiliate of a savings and loan association or 4227
savings and loan holding company that is subject to examination 4228
by the comptroller of the currency, the federal reserve, or the 4229
federal deposit insurance corporation, ~~or to any savings and~~ 4230
~~loan association, savings and loan holding company, or affiliate~~ 4231

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

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

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

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

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

or soliciting consumer transactions, whether or not the person 4262
deals directly with the consumer. If the consumer transaction is 4263
in connection with a residential mortgage, "supplier" does not 4264
include an assignee or purchaser of the loan for value, except 4265
as otherwise provided in section 1345.091 of the Revised Code. 4266
For purposes of this division, in a consumer transaction in 4267
connection with a residential mortgage, "seller" means a loan 4268
officer, mortgage broker, or nonbank mortgage lender. 4269

(D) "Consumer" means a person who engages in a consumer 4270
transaction with a supplier. 4271

(E) "Knowledge" means actual awareness, but such actual 4272
awareness may be inferred where objective manifestations 4273
indicate that the individual involved acted with such awareness. 4274

(F) "Natural gas service" means the sale of natural gas, 4275
exclusive of any distribution or ancillary service. 4276

(G) "Public telecommunications service" means the 4277
transmission by electromagnetic or other means, other than by a 4278
telephone company as defined in section 4927.01 of the Revised 4279
Code, of signs, signals, writings, images, sounds, messages, or 4280
data originating in this state regardless of actual call 4281
routing. "Public telecommunications service" excludes a system, 4282
including its construction, maintenance, or operation, for the 4283
provision of telecommunications service, or any portion of such 4284
service, by any entity for the sole and exclusive use of that 4285
entity, its parent, a subsidiary, or an affiliated entity, and 4286
not for resale, directly or indirectly; the provision of 4287
terminal equipment used to originate telecommunications service; 4288
broadcast transmission by radio, television, or satellite 4289
broadcast stations regulated by the federal government; or cable 4290
television service. 4291

(H) (1) "Loan officer" means an individual who for 4292
compensation or gain, or in anticipation of compensation or 4293
gain, takes or offers to take a residential mortgage loan 4294
application; assists or offers to assist a buyer in obtaining or 4295
applying to obtain a residential mortgage loan by, among other 4296
things, advising on loan terms, including rates, fees, and other 4297
costs; offers or negotiates terms of a residential mortgage 4298
loan; or issues or offers to issue a commitment for a 4299
residential mortgage loan. "Loan officer" also includes a 4300
mortgage loan originator as defined in section 1322.01 of the 4301
Revised Code. 4302

(2) "Loan officer" does not include an employee of a bank, 4303
savings bank, savings and loan association, credit union, or 4304
credit union service organization organized under the laws of 4305
this state, another state, or the United States; an employee of 4306
a subsidiary of such a bank, savings bank, savings and loan 4307
association, or credit union; or an employee of an affiliate 4308
that (a) controls, is controlled by, or is under common control 4309
with, such a bank, savings bank, savings and loan association, 4310
or credit union and (b) is subject to examination, supervision, 4311
and regulation, including with respect to the affiliate's 4312
compliance with applicable consumer protection requirements, by 4313
the board of governors of the federal reserve system, the 4314
comptroller of the currency, ~~the office of thrift supervision,~~ 4315
the federal deposit insurance corporation, or the national 4316
credit union administration. 4317

(I) "Residential mortgage" or "mortgage" means an 4318
obligation to pay a sum of money evidenced by a note and secured 4319
by a lien upon real property located within this state 4320
containing two or fewer residential units or on which two or 4321
fewer residential units are to be constructed and includes such 4322

an obligation on a residential condominium or cooperative unit. 4323

(J) (1) "Mortgage broker" means any of the following: 4324

(a) A person that holds that person out as being able to 4325
assist a buyer in obtaining a mortgage and charges or receives 4326
from either the buyer or lender money or other valuable 4327
consideration readily convertible into money for providing this 4328
assistance; 4329

(b) A person that solicits financial and mortgage 4330
information from the public, provides that information to a 4331
mortgage broker or a person that makes residential mortgage 4332
loans, and charges or receives from either of them money or 4333
other valuable consideration readily convertible into money for 4334
providing the information; 4335

(c) A person engaged in table-funding or warehouse-lending 4336
mortgage loans that are residential mortgage loans. 4337

(2) "Mortgage broker" does not include a bank, savings 4338
bank, savings and loan association, credit union, or credit 4339
union service organization organized under the laws of this 4340
state, another state, or the United States; a subsidiary of such 4341
a bank, savings bank, savings and loan association, or credit 4342
union; an affiliate that (a) controls, is controlled by, or is 4343
under common control with, such a bank, savings bank, savings 4344
and loan association, or credit union and (b) is subject to 4345
examination, supervision, and regulation, including with respect 4346
to the affiliate's compliance with applicable consumer 4347
protection requirements, by the board of governors of the 4348
federal reserve system, the comptroller of the currency, ~~the~~ 4349
~~office of thrift supervision,~~ the federal deposit insurance 4350
corporation, or the national credit union administration; or an 4351

employee of any such entity. 4352

(K) "Nonbank mortgage lender" means any person that 4353
engages in a consumer transaction in connection with a 4354
residential mortgage, except for a bank, savings bank, savings 4355
and loan association, credit union, or credit union service 4356
organization organized under the laws of this state, another 4357
state, or the United States; a subsidiary of such a bank, 4358
savings bank, savings and loan association, or credit union; or 4359
an affiliate that (1) controls, is controlled by, or is under 4360
common control with, such a bank, savings bank, savings and loan 4361
association, or credit union and (2) is subject to examination, 4362
supervision, and regulation, including with respect to the 4363
affiliate's compliance with applicable consumer protection 4364
requirements, by the board of governors of the federal reserve 4365
system, the comptroller of the currency, ~~the office of thrift-~~ 4366
~~supervision,~~ the federal deposit insurance corporation, or the 4367
national credit union administration. 4368

(L) For purposes of divisions (H), (J), and (K) of this 4369
section: 4370

(1) "Control" of another entity means ownership, control, 4371
or power to vote twenty-five per cent or more of the outstanding 4372
shares of any class of voting securities of the other entity, 4373
directly or indirectly or acting through one or more other 4374
persons. 4375

(2) "Credit union service organization" means a CUSO as 4376
defined in 12 C.F.R. 702.2. 4377

Sec. 1501.04. The performance cash bond refunds fund is 4378
created in the state treasury. The fund shall consist of money 4379
received by the department of natural resources from other 4380

entities as performance security. Upon the completion of work or 4381
satisfaction of terms for which the performance cash bond was 4382
required, the money shall be refunded to the pledging entity. If 4383
the performance cash bond is forfeited, the money shall be 4384
transferred to the appropriate fund within the state treasury. 4385

Sec. 1501.10. Advertisement for bids for the leasing of 4386
public service facilities in state parks shall be published in 4387
any newspaper of general circulation in Franklin county and each 4388
county in which the facility to be leased is situated. The 4389
publication shall be made once each week for four consecutive 4390
weeks prior to the date fixed for the acceptance of the bids. 4391
The notice shall set forth the pertinent facts concerning the 4392
facility to be leased and the periods of required operation 4393
during the year and shall refer to the terms and conditions that 4394
the lease shall include, which shall be on file in the office of 4395
the director of natural resources and open to public inspection, 4396
except that questionnaires and financial statements submitted 4397
under this section shall be confidential and shall not be open 4398
to public inspection. 4399

The public service facilities may be leased for a period 4400
of years that may be determined by the director, provided that 4401
the director, at the expiration of the original lease, without 4402
advertisement for bids, may grant the lessee a renewal of the 4403
lease for an additional period not to exceed four years. Leases 4404
executed under this section may contain any provisions that the 4405
director considers necessary, provided that the following 4406
provisions shall be contained in the leases: 4407

(A) The lessee shall be responsible for keeping the 4408
facilities in good condition and repair, reasonable wear and 4409
tear and damages caused by casualty or acts beyond the control 4410

of the lessee excepted. 4411

(B) The lessee shall operate the facilities for periods 4412
during the year that the director determines are necessary to 4413
satisfy the needs of the people of the state, provided that the 4414
periods of required operation shall be set forth in the notice 4415
for the acceptance of bids. 4416

(C) The lessee, upon the execution of the lease, shall 4417
furnish surety to ensure that the lessee shall perform fully all 4418
terms of the lease. The surety shall be in the form of a 4419
performance bond, an irrevocable letter of credit to the state, 4420
cash, or negotiable certificates of deposit of any bank or 4421
savings and loan association organized or transacting business 4422
in the United States. The cash, market value of the certificates 4423
of deposit, or face value of the irrevocable letter of credit 4424
shall be equal to or greater than the amount of the bond 4425
prescribed by the director in the lease. 4426

~~Immediately upon a deposit of~~ If the lessee deposits cash 4427
~~or certificates of deposit, the director~~ cash shall deliver them 4428
~~to the treasurer of state, who shall be responsible for their~~ 4429
~~safekeeping and hold them in trust for the purposes for which~~ 4430
~~they have been deposited~~ credited to the performance cash bond 4431
refunds fund created in section 1501.04 of the Revised Code. A 4432
lessee making a deposit of cash or certificates of deposit may 4433
withdraw and receive, from the ~~treasurer of state, on the~~ 4434
~~written order of the director,~~ all or any portion of the cash or 4435
certificates of deposit upon depositing with the ~~treasurer of~~ 4436
~~state cash or director~~ negotiable certificates of deposit issued 4437
by any bank organized or transacting business in this state 4438
equal in par value to the par value of the cash or certificates 4439
of deposit withdrawn. A lessee may demand and receive from the 4440

~~treasurer of state~~ director all interest or other income from 4441
any such certificates as it becomes due. 4442

The director may lease any public service facilities in 4443
state parks to the person who submits the highest and best bid 4444
under the terms set forth in this section and in accordance with 4445
the rules of the director, taking into account the financial 4446
responsibility and the ability of the lessee to operate the 4447
facilities. Bids shall be sealed and opened at a date and time 4448
certain, published in advance. 4449

This section does not apply to a lease and contract 4450
executed under section 1501.012 of the Revised Code. 4451

Sec. 1503.05. (A) The chief of the division of forestry 4452
may sell timber and other forest products from the state forest, 4453
state forest nurseries, and federal lands in accordance with the 4454
terms of an agreement under section 1503.271 of the Revised Code 4455
whenever the chief considers such a sale desirable. With the 4456
approval of the attorney general and the director of natural 4457
resources, the chief may sell portions of the state forest lands 4458
when such a sale is advantageous to the state. 4459

(B) Except as otherwise provided in this section, a timber 4460
sale agreement shall not be executed unless the person or 4461
governmental entity bidding on the sale executes and files a 4462
surety bond conditioned on completion of the timber sale in 4463
accordance with the terms of the agreement in an amount 4464
determined by the chief. All bonds shall be given in a form 4465
prescribed by the chief and shall run to the state as obligee. 4466

The chief shall not approve any bond until it is 4467
personally signed and acknowledged by both principal and surety, 4468
or as to either by the attorney in fact thereof, with a 4469

certified copy of the power of attorney attached. The chief 4470
shall not approve the bond unless there is attached a 4471
certificate of the superintendent of insurance that the company 4472
is authorized to transact a fidelity and surety business in this 4473
state. 4474

In lieu of a bond, the bidder may deposit ~~any of the~~ 4475
~~following:~~ 4476

~~(1) Cash in an amount equal to the amount of the bond;~~ 4477

~~(2) United States government securities having a par value~~ 4478
~~equal to or greater than the amount of the bond;~~ 4479

~~(3) Negotiable~~ cash, negotiable certificates of deposit, 4480
or irrevocable letters of credit issued by any bank organized or 4481
transacting business in this state having a par value equal to 4482
or greater than the amount of the bond. 4483

The cash or securities shall be deposited on the same 4484
terms as bonds. If one or more certificates of deposit are 4485
deposited in lieu of a bond, the chief shall require the bank 4486
that issued any of the certificates to pledge securities of the 4487
aggregate market value equal to the amount of the certificate or 4488
certificates that is in excess of the amount insured by the 4489
federal deposit insurance corporation. The securities to be 4490
pledged shall be those designated as eligible under section 4491
135.18 of the Revised Code. The securities shall be security for 4492
the repayment of the certificate or certificates of deposit. 4493

~~Immediately upon~~ Upon a deposit of cash, ~~securities,~~ 4494
certificates of deposit, or irrevocable letters of credit 4495
described in division (B) of this section, the chief shall 4496
~~deliver them to the treasurer of state, who shall hold them in~~ 4497
trust for the purposes for which they have been deposited. ~~The~~ 4498

~~treasurer of state is responsible for the safekeeping of the~~ 4499
~~deposits. If the bidder deposits cash, the cash shall be~~ 4500
credited to the performance cash bond refunds fund created in 4501
section 1501.04 of the Revised Code. If the bidder deposits 4502
certificates of deposit or letters of credit, the chief is 4503
responsible for the safekeeping of those certificates or 4504
letters. A bidder making a deposit of cash, ~~securities,~~ 4505
certificates of deposit, or letters of credit may withdraw and 4506
receive, ~~from the treasurer of state, on the written order of~~ 4507
~~the chief,~~ all or any portion of the cash, ~~securities,~~ 4508
certificates of deposit, or letters of credit upon depositing 4509
with the ~~treasurer of state cash, other United States government~~ 4510
~~securities, or chief~~ other negotiable certificates of deposit or 4511
irrevocable letters of credit ~~issued by any bank organized or~~ 4512
~~transacting business in this state, that are~~ equal in par value 4513
to the par value of the cash, ~~securities,~~ certificates of 4514
deposit, or letters of credit withdrawn. 4515

A bidder that deposits negotiable certificates of deposit 4516
may demand and receive from the ~~treasurer of state~~ chief all 4517
interest or other income from any such ~~securities or~~ 4518
~~certificates~~ certificate as it becomes due. If ~~securities~~ 4519
certificates so deposited with and in the possession of the 4520
~~treasurer of state~~ chief mature or are called for payment by 4521
their issuer, the ~~treasurer of state~~ chief, at the request of the 4522
bidder who deposited them, shall convert the proceeds ~~of the~~ 4523
~~redemption or payment of the securities~~ into other United States 4524
~~government securities,~~ negotiable certificates of deposit, or 4525
cash as the bidder designates. 4526

When the chief finds that a person or governmental agency 4527
has failed to comply with the conditions of the person's or 4528
~~governmental~~ agency's bond, the chief shall make a finding of 4529

that fact and declare the bond, cash, ~~securities,~~ certificates, 4530
or letters of credit forfeited. The chief thereupon shall 4531
certify the total forfeiture to the attorney general, who shall 4532
proceed to collect the amount of the bond, cash, ~~securities,~~ 4533
certificates, or letters of credit. 4534

In lieu of total forfeiture, the surety, at its option, 4535
may cause the timber sale to be completed or pay to the 4536
~~treasurer of state~~ chief the cost thereof. 4537

All money collected as a result of forfeitures of bonds, 4538
cash, ~~securities,~~ certificates, and letters of credit under this 4539
section shall be credited to the state forest fund created in 4540
this section. 4541

(C) The chief may grant easements and leases on portions 4542
of the state forest lands and state forest nurseries under terms 4543
that are advantageous to the state, and the chief may grant 4544
mineral rights on a royalty basis on those lands and nurseries, 4545
with the approval of the attorney general and the director. 4546

(D) All money received from the sale of state forest 4547
lands, or in payment for easements or leases on or as rents from 4548
those lands or from state forest nurseries, shall be paid into 4549
the state treasury to the credit of the state forest fund, which 4550
is hereby created. In addition, all money received from federal 4551
grants, payments, and reimbursements, from the sale of 4552
reforestation tree stock, from the sale of forest products, 4553
other than standing timber, and from the sale of minerals taken 4554
from the state forest lands and state forest nurseries, together 4555
with royalties from mineral rights, shall be paid into the state 4556
treasury to the credit of the state forest fund. Any other 4557
revenues derived from the operation of the state forests and 4558
related facilities or equipment also shall be paid into the 4559

state treasury to the credit of the state forest fund, as shall 4560
contributions received for the issuance of Smokey Bear license 4561
plates under section 4503.574 of the Revised Code and any other 4562
money required by law to be deposited in the fund. Any revenue 4563
generated from agreements entered into under section 1503.271 of 4564
the Revised Code shall be deposited in the fund. 4565

The state forest fund shall not be expended for any 4566
purpose other than the administration, operation, maintenance, 4567
development, or utilization of the state forests, forest 4568
nurseries, and forest programs; for facilities or equipment 4569
incident to them; for the further purchase of lands for state 4570
forest or forest nursery purposes; for wildfire suppression 4571
payments; for fire prevention purposes in the case of 4572
contributions received pursuant to section 4503.574 of the 4573
Revised Code; or for forest management projects associated with 4574
federal lands in the case of revenues received pursuant to 4575
agreements entered into under section 1503.271 of the Revised 4576
Code. 4577

(E) All money received from the sale of standing timber 4578
taken from state forest lands and state forest nurseries shall 4579
be deposited into the state treasury to the credit of the 4580
forestry holding account redistribution fund, which is hereby 4581
created. The money shall remain in the fund until they are 4582
redistributed in accordance with this division. 4583

The redistribution shall occur at least once each year. To 4584
begin the redistribution, the chief first shall determine the 4585
amount of all standing timber sold from state forest lands and 4586
state forest nurseries, together with the amount of the total 4587
sale proceeds, in each county, in each township within the 4588
county, and in each school district within the county. The chief 4589

next shall determine the amount of the direct costs that the 4590
division of forestry incurred in association with the sale of 4591
that standing timber. The amount of the direct costs shall be 4592
subtracted from the amount of the total sale proceeds and shall 4593
be transferred from the forestry holding account redistribution 4594
fund to the state forest fund. 4595

The remaining amount of the total sale proceeds equals the 4596
net value of the standing timber that was sold. The chief shall 4597
determine the net value of standing timber sold from state 4598
forest lands and state forest nurseries in each county, in each 4599
township within the county, and in each school district within 4600
the county and shall send to each county treasurer a copy of the 4601
determination at the time that money is paid to the county 4602
treasurer under this division. 4603

Thirty-five per cent of the net value of standing timber 4604
sold from state forest lands and state forest nurseries located 4605
in a county shall be transferred from the forestry holding 4606
account redistribution fund to the state forest fund. The 4607
remaining sixty-five per cent of the net value shall be 4608
transferred from the forestry holding account redistribution 4609
fund and paid to the county treasurer for the use of the general 4610
fund of that county. 4611

The county auditor shall do all of the following: 4612

(1) Retain for the use of the general fund of the county 4613
one-fourth of the amount received by the county under division 4614
(E) of this section; 4615

(2) Pay into the general fund of any township located 4616
within the county and containing such lands and nurseries one- 4617
fourth of the amount received by the county from standing timber 4618

sold from lands and nurseries located in the township; 4619

(3) Request the board of education of any school district 4620
located within the county and containing such lands and 4621
nurseries to identify which fund or funds of the district should 4622
receive the money available to the school district under 4623
division (E) (3) of this section. After receiving notice from the 4624
board, the county auditor shall pay into the fund or funds so 4625
identified one-half of the amount received by the county from 4626
standing timber sold from lands and nurseries located in the 4627
school district, distributed proportionately as identified by 4628
the board. 4629

The division of forestry shall not supply logs, lumber, or 4630
other forest products or minerals, taken from the state forest 4631
lands or state forest nurseries, to any other agency or 4632
subdivision of the state unless payment is made therefor in the 4633
amount of the actual prevailing value thereof. This section is 4634
applicable to the money so received. 4635

(F) The chief may enter into a personal service contract 4636
for consulting services to assist the chief with the sale of 4637
timber or other forest products and related inventory. 4638
Compensation for consulting services shall be paid from the 4639
proceeds of the sale of timber or other forest products and 4640
related inventory that are the subject of the personal service 4641
contract. 4642

Sec. 1509.07. (A) (1) (a) Except as provided in division (A) 4643
(1) (b) or (A) (2) of this section, an owner of any well, except 4644
an exempt Mississippian well or an exempt domestic well, shall 4645
obtain liability insurance coverage from a company authorized or 4646
approved to do business in this state in an amount of not less 4647
than one million dollars bodily injury coverage and property 4648

damage coverage to pay damages for injury to persons or damage 4649
to property caused by the drilling, operation, or plugging of 4650
all the owner's wells in this state. However, if any well is 4651
located within an urbanized area, the owner shall obtain 4652
liability insurance coverage in an amount of not less than three 4653
million dollars for bodily injury coverage and property damage 4654
coverage to pay damages for injury to persons or damage to 4655
property caused by the drilling, operation, or plugging of all 4656
of the owner's wells in this state. 4657

(b) A board of county commissioners of a county that is an 4658
owner of a well or a board of township trustees of a township 4659
that is an owner of a well may elect to satisfy the liability 4660
coverage requirements specified in division (A)(1)(a) of this 4661
section by participating in a joint self-insurance pool in 4662
accordance with the requirements established under section 4663
2744.081 of the Revised Code. Nothing in division (A)(1)(b) of 4664
this section shall be construed to allow an entity, other than a 4665
county or township, to participate in a joint self-insurance 4666
pool to satisfy the liability coverage requirements specified in 4667
division (A)(1)(a) of this section. 4668

(2) An owner of a horizontal well shall obtain liability 4669
insurance coverage from an insurer authorized to write such 4670
insurance in this state or from an insurer approved to write 4671
such insurance in this state under section 3905.33 of the 4672
Revised Code in an amount of not less than five million dollars 4673
bodily injury coverage and property damage coverage to pay 4674
damages for injury to persons or damage to property caused by 4675
the production operations of all the owner's wells in this 4676
state. The insurance policy shall include a reasonable level of 4677
coverage available for an environmental endorsement. 4678

(3) An owner shall maintain the coverage required under 4679
division (A) (1) or (2) of this section until all the owner's 4680
wells are plugged and abandoned or are transferred to an owner 4681
who has obtained insurance as required under this section and 4682
who is not under a notice of material and substantial violation 4683
or under a suspension order. The owner shall provide proof of 4684
liability insurance coverage to the chief of the division of oil 4685
and gas resources management upon request. Upon failure of the 4686
owner to provide that proof when requested, the chief may order 4687
the suspension of any outstanding permits and operations of the 4688
owner until the owner provides proof of the required insurance 4689
coverage. 4690

(B) (1) Except as otherwise provided in this section, an 4691
owner of any well, before being issued a permit under section 4692
1509.06 of the Revised Code or before operating or producing 4693
from a well, shall execute and file with the division of oil and 4694
gas resources management a surety bond conditioned on compliance 4695
with the restoration requirements of section 1509.072, the 4696
plugging requirements of section 1509.12, the permit provisions 4697
of section 1509.13 of the Revised Code, and all rules and orders 4698
of the chief relating thereto, in an amount set by rule of the 4699
chief. 4700

(2) The owner may deposit with the chief, instead of a 4701
surety bond, cash in an amount equal to the surety bond as 4702
prescribed pursuant to this section or negotiable certificates 4703
of deposit or irrevocable letters of credit, issued by any bank 4704
organized or transacting business in this state, having a cash 4705
value equal to or greater than the amount of the surety bond as 4706
prescribed pursuant to this section. Cash or certificates of 4707
deposit shall be deposited upon the same terms as those upon 4708
which surety bonds may be deposited. If the owner deposits cash, 4709

the cash shall be credited to the performance cash bond refunds 4710
fund created in section 1501.04 of the Revised Code. If the 4711
owner deposits certificates of deposit ~~are deposited with the~~ 4712
~~chief instead of a surety bond,~~ the chief shall require the bank 4713
that issued any such certificate to pledge securities of a cash 4714
value equal to the amount of the certificate that is in excess 4715
of the amount insured by ~~any of the agencies and~~ 4716
~~instrumentalities created under the "Federal Deposit Insurance~~ 4717
~~Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and~~ 4718
~~regulations adopted under it, including at least the federal~~ 4719
deposit insurance corporation. The securities shall be security 4720
for the repayment of the certificate of deposit. 4721

~~Immediately upon~~ Upon a deposit of cash, certificates of 4722
deposit, or letters of credit with the chief, the chief shall 4723
~~deliver them to the treasurer of state who shall hold them in~~ 4724
trust for the purposes for which they have been deposited. 4725

(3) Instead of a surety bond, the chief may accept proof 4726
of financial responsibility consisting of a sworn financial 4727
statement showing a net financial worth within this state equal 4728
to twice the amount of the bond for which it substitutes and, as 4729
may be required by the chief, a list of producing properties of 4730
the owner within this state or other evidence showing ability 4731
and intent to comply with the law and rules concerning 4732
restoration and plugging that may be required by rule of the 4733
chief. The owner of an exempt Mississippian well is not required 4734
to file scheduled updates of the financial documents, but shall 4735
file updates of those documents if requested to do so by the 4736
chief. The owner of a nonexempt Mississippian well shall file 4737
updates of the financial documents in accordance with a schedule 4738
established by rule of the chief. The chief, upon determining 4739
that an owner for whom the chief has accepted proof of financial 4740

responsibility instead of bond cannot demonstrate financial 4741
responsibility, shall order that the owner execute and file a 4742
bond or deposit cash, certificates of deposit, or irrevocable 4743
letters of credit as required by this section for the wells 4744
specified in the order within ten days of receipt of the order. 4745
If the order is not complied with, all wells of the owner that 4746
are specified in the order and for which no bond is filed or 4747
cash, certificates of deposit, or letters of credit are 4748
deposited shall be plugged. No owner shall fail or refuse to 4749
plug such a well. Each day on which such a well remains 4750
unplugged thereafter constitutes a separate offense. 4751

(4) The surety bond provided for in this section shall be 4752
executed by a surety company authorized to do business in this 4753
state. 4754

The chief shall not approve any bond until it is 4755
personally signed and acknowledged by both principal and surety, 4756
or as to either by the principal's or surety's attorney in fact, 4757
with a certified copy of the power of attorney attached thereto. 4758
The chief shall not approve a bond unless there is attached a 4759
certificate of the superintendent of insurance that the company 4760
is authorized to transact a fidelity and surety business in this 4761
state. 4762

All bonds shall be given in a form to be prescribed by the 4763
chief and shall run to the state as obligee. 4764

(5) An owner of an exempt Mississippian well or an exempt 4765
domestic well, in lieu of filing a surety bond, cash in an 4766
amount equal to the surety bond, certificates of deposit, 4767
irrevocable letters of credit, or a sworn financial statement, 4768
may file a one-time fee of fifty dollars, which shall be 4769
deposited in the oil and gas well plugging fund created in 4770

section 1509.071 of the Revised Code. 4771

(C) An owner, operator, producer, or other person shall 4772
not operate a well or produce from a well at any time if the 4773
owner, operator, producer, or other person has not satisfied the 4774
requirements established in this section. 4775

Sec. 1509.225. (A) Before being issued a registration 4776
certificate under section 1509.222 of the Revised Code, an 4777
applicant shall execute and file with the division of oil and 4778
gas resources management a surety bond for fifteen thousand 4779
dollars to provide compensation for damage and injury resulting 4780
from transporters' violations of sections 1509.22, 1509.222, and 4781
1509.223 of the Revised Code, all rules and orders of the chief 4782
of the division of oil and gas resources management relating 4783
thereto, and all terms and conditions of the registration 4784
certificate imposed thereunder. The applicant may deposit with 4785
the chief, in lieu of a surety bond, cash in an amount equal to 4786
the surety bond as prescribed in this section, or negotiable 4787
certificates of deposit issued by any bank organized or 4788
transacting business in this state having a cash value equal to 4789
or greater than the amount of the surety bond as prescribed in 4790
this section. Cash or certificates of deposit shall be deposited 4791
upon the same terms as those upon which surety bonds may be 4792
deposited, and the chief shall hold them in trust for the 4793
purposes for which they have been deposited. If the applicant 4794
deposits cash, the cash shall be credited to the performance 4795
cash bond refunds fund created in section 1501.04 of the Revised 4796
Code. If the applicant deposits certificates of deposit ~~are~~ 4797
~~deposited with the chief in lieu of a surety bond,~~ the chief 4798
shall require the bank that issued any such certificate to 4799
pledge securities of a cash value equal to the amount of the 4800
certificate that is in excess of the amount insured by ~~any of~~ 4801

~~the agencies and instrumentalities created under the "Federal- 4802
Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as 4803
amended, and regulations adopted under it, including at least 4804
the federal deposit insurance corporation. 4805~~

~~Such corporation. Such securities shall be security for 4806
the repayment of the certificate of deposit. Immediately upon a 4807
deposit of cash or certificates with the chief, the chief shall 4808
deliver it to the treasurer of state who shall hold it in trust 4809
for the purposes for which it has been deposited. 4810~~

(B) The surety bond provided for in this section shall be 4811
executed by a surety company authorized to do business in this 4812
state. The chief shall not approve any bond until it is 4813
personally signed and acknowledged by both principal and surety, 4814
or as to either by an attorney in fact, with a certified copy of 4815
the power of attorney attached thereto. The chief shall not 4816
approve the bond unless there is attached a certificate of the 4817
superintendent of insurance that the company is authorized to 4818
transact a fidelity and surety business in this state. All bonds 4819
shall be given in a form to be prescribed by the chief. 4820

(C) If a registered transporter is found liable for a 4821
violation of section 1509.22, 1509.222, or 1509.223 of the 4822
Revised Code or a rule, order, or term or condition of a 4823
certificate involving, in any case, damage or injury to persons 4824
or property, or both, the court may order the forfeiture of any 4825
portion of the bond, cash, or other securities required by this 4826
section in full or partial payment of damages to the person to 4827
whom the damages are due. The ~~treasurer of state and the chief~~ 4828
shall deliver the bond or any cash or other securities deposited 4829
in lieu of bond, as specified in the court's order, to the 4830
person to whom the damages are due; however, execution against 4831

the bond, cash, or other securities, if necessary, is the 4832
responsibility of the person to whom the damages are due. The 4833
chief shall not release the bond, cash, or securities required 4834
by this section except by court order or until the registration 4835
is terminated. 4836

Sec. 1514.04. (A) Upon receipt of notification from the 4837
chief of the division of mineral resources management of the 4838
chief's intent to issue an order granting a surface or in-stream 4839
mining permit to the applicant, the applicant shall file a 4840
surety bond, cash, an irrevocable letter of credit, or 4841
certificates of deposit in the amount, unless otherwise provided 4842
by rule, of ten thousand dollars. If the amount of land to be 4843
affected is more than twenty acres, the applicant also shall 4844
file a surety bond, cash, an irrevocable letter of credit, or 4845
certificates of deposit in the amount of five hundred dollars 4846
per acre of land to be affected that exceeds twenty acres. Upon 4847
receipt of notification from the chief of the chief's intent to 4848
issue an order granting an amendment to a surface or in-stream 4849
mining permit, the applicant shall file a surety bond, cash, an 4850
irrevocable letter of credit, or certificates of deposit in the 4851
amount required in this division. 4852

In the case of a surface mining permit, the bond shall be 4853
filed based on the number of acres estimated to be affected 4854
during the first year of operation under the permit. In the case 4855
of an amendment to a surface mining permit, the bond shall be 4856
filed based on the number of acres estimated to be affected 4857
during the balance of the period until the next anniversary date 4858
of the permit. 4859

In the case of an in-stream mining permit, the bond shall 4860
be filed based on the number of acres of land within the limits 4861

of the in-stream mining permit for the entire permit period. In 4862
the case of an amendment to an in-stream mining permit, the bond 4863
shall be filed based on the number of any additional acres of 4864
land to be affected within the limits of the in-stream mining 4865
permit. 4866

(B) A surety bond filed pursuant to this section and 4867
sections 1514.02 and 1514.03 of the Revised Code shall be upon 4868
the form that the chief prescribes and provides and shall be 4869
signed by the operator as principal and by a surety company 4870
authorized to transact business in the state as surety. The bond 4871
shall be payable to the state and shall be conditioned upon the 4872
faithful performance by the operator of all things to be done 4873
and performed by the operator as provided in this chapter and 4874
the rules and orders of the chief adopted or issued pursuant 4875
thereto. 4876

The operator may deposit with the chief, in lieu of a 4877
surety bond, cash in an amount equal to the surety bond as 4878
prescribed in this section or an irrevocable letter of credit or 4879
negotiable certificates of deposit issued by any bank organized 4880
or transacting business in this state having a cash value equal 4881
to or greater than the amount of the surety bond as prescribed 4882
in this section. Cash or certificates of deposit shall be 4883
deposited upon the same terms as the terms upon which surety 4884
bonds may be deposited. If the operator deposits cash, the cash 4885
shall be credited to the performance cash bond refunds fund 4886
created in section 1501.04 of the Revised Code. ~~If one or more~~ 4887
~~the operator deposits~~ certificates of deposit ~~are deposited with~~ 4888
~~the chief in lieu of a surety bond~~, the chief shall require the 4889
bank that issued any such certificate to pledge securities of a 4890
cash value equal to the amount of the certificate, ~~or~~ 4891
~~certificates~~, that is in excess of the amount insured by the 4892

federal deposit insurance corporation. The securities shall be 4893
security for the repayment of the certificate of deposit. 4894

(C) ~~Immediately upon~~ Upon a deposit of cash, a letter of 4895
credit, or certificates with the chief, the chief shall ~~deliver~~ 4896
~~it to the treasurer of state who shall hold it in trust for the~~ 4897
purposes for which it has been deposited. The ~~treasurer of state~~ 4898
chief shall be responsible for the safekeeping of such deposits. 4899
An operator making a deposit of cash, a letter of credit, or 4900
certificates of deposit may withdraw and receive, from the 4901
~~treasurer of state, on the written order of the chief,~~ all or 4902
any part of the cash, letter of credit, or certificates in the 4903
possession of the ~~treasurer of state~~chief, upon depositing with 4904
the ~~treasurer of state~~ cash, or chief an irrevocable letter of 4905
credit or negotiable certificates of deposit issued by any bank 4906
organized or transacting business in this state, equal in value 4907
to the value of the cash, letter of credit, or certificates 4908
withdrawn. An operator may demand and receive from the ~~treasurer~~ 4909
~~of state~~ chief all interest or other income from any 4910
certificates as it becomes due. If certificates deposited with 4911
and in the possession of the ~~treasurer of state~~ chief mature or 4912
are called for payment by the issuer thereof, the ~~treasurer of~~ 4913
~~state~~chief, at the request of the operator who deposited them, 4914
shall convert the proceeds of the redemption or payment of the 4915
certificates into such other negotiable certificates of deposit 4916
issued by any bank organized or transacting business in this 4917
state or cash, as may be designated by the operator. 4918

(D) A governmental agency, as defined in division (A) of 4919
section 1514.022 of the Revised Code, or a board or commission 4920
that derives its authority from a governmental agency shall not 4921
require a surface or in-stream mining operator to file a surety 4922
bond or any other form of financial assurance for the 4923

reclamation of land to be affected by a surface or in-stream 4924
mining operation authorized under this chapter. 4925

Sec. 1514.05. (A) At any time within the period allowed an 4926
operator by section 1514.02 of the Revised Code to reclaim an 4927
area of land affected by surface or in-stream mining, the 4928
operator may file a request, on a form provided by the chief of 4929
the division of mineral resources management, for inspection of 4930
the area of land upon which the reclamation, other than any 4931
required planting, is completed. The request shall include all 4932
of the following: 4933

(1) The location of the area and number of acres; 4934

(2) The permit number; 4935

(3) A map showing the location of the acres reclaimed, 4936
prepared and certified in accordance with division (A)(11) or 4937
(12) of section 1514.02 of the Revised Code, as appropriate. In 4938
the case of an in-stream mining operation, the map also shall 4939
include, as applicable, the information required under division 4940
(A)(18) of section 1514.02 of the Revised Code. 4941

The chief shall make an inspection and evaluation of the 4942
reclamation of the area of land for which the request was 4943
submitted within ninety days after receipt of the request or, if 4944
the operator fails to complete the reclamation or file the 4945
request as required, as soon as the chief learns of the default. 4946
Thereupon, if the chief approves the reclamation, other than any 4947
required planting, as meeting the requirements of this chapter, 4948
rules adopted thereunder, any orders issued during the mining or 4949
reclamation, and the specifications of the plan for mining and 4950
reclaiming, the chief shall issue an order to the operator and 4951
the operator's surety releasing them from liability for one-half 4952

of the total amount of their surety bond on deposit to ensure 4953
reclamation for the area upon which reclamation is completed. If 4954
the operator has deposited cash, an irrevocable letter of 4955
credit, or certificates of deposit in lieu of a surety bond to 4956
ensure reclamation, the chief shall ~~issue an order~~ deliver to 4957
the operator ~~releasing or the operator's authorized agent one-~~ 4958
half of the amount so held ~~and promptly shall transmit a-~~ 4959
~~certified copy of the order to the treasurer of state. Upon-~~ 4960

~~presentation of the order to the treasurer of state by the~~ 4961
~~operator to whom it was issued, or by the operator's authorized~~ 4962
~~agent, the treasurer of state shall deliver to the operator or~~ 4963
~~the operator's authorized agent the cash, irrevocable letter of~~ 4964
~~credit, or certificates of deposit designated in the order.~~ 4965

If the chief does not approve the reclamation, other than 4966
any required planting, the chief shall notify the operator by 4967
certified mail. The notice shall be an order stating the reasons 4968
for unacceptability, ordering further actions to be taken, and 4969
setting a time limit for compliance. If the operator does not 4970
comply with the order within the time limit specified, the chief 4971
may order an extension of time for compliance after determining 4972
that the operator's noncompliance is for good cause, resulting 4973
from developments partially or wholly beyond the operator's 4974
control. If the operator complies within the time limit or the 4975
extension of time granted for compliance, the chief shall order 4976
release of the performance bond in the same manner as in the 4977
case of approval of reclamation, other than any required 4978
planting, by the chief, and the ~~treasurer of state~~ chief shall 4979
proceed as in that case. If the operator does not comply within 4980
the time limit and the chief does not order an extension, or if 4981
the chief orders an extension of time and the operator does not 4982
comply within the extension of time granted for compliance, the 4983

chief shall issue another order declaring that the operator has 4984
failed to reclaim and, if the operator's permit has not already 4985
expired or been revoked, revoking the operator's permit. The 4986
chief shall thereupon proceed under division (C) of this 4987
section. 4988

(B) At any time within the period allowed an operator by 4989
section 1514.02 of the Revised Code to reclaim an area affected 4990
by surface mining, the operator may file a request, on a form 4991
provided by the chief, for inspection of the area of land on 4992
which all reclamation, including the successful establishment of 4993
any required planting, is completed. The request shall include 4994
all of the following: 4995

(1) The location of the area and number of acres; 4996

(2) The permit number; 4997

(3) The type and date of any required planting of 4998
vegetative cover and the degree of success of growth; 4999

(4) A map showing the location of the acres reclaimed, 5000
prepared and certified in accordance with division (A) (11) or 5001
(12) of section 1514.02 of the Revised Code, as appropriate. In 5002
the case of an in-stream mining operation, the map also shall 5003
include the information required under division (A) (18) of 5004
section 1514.02 of the Revised Code. 5005

The chief shall make an inspection and evaluation of the 5006
reclamation of the area of land for which the request was 5007
submitted within ninety days after receipt of the request or, if 5008
the operator fails to complete the reclamation or file the 5009
request as required, as soon as the chief learns of the default. 5010
Thereupon, if the chief finds that the reclamation meets the 5011
requirements of this chapter, rules adopted under it, any orders 5012

issued during the mining and reclamation, and the specifications 5013
of the plan for mining and reclaiming and decides to release any 5014
remaining performance bond on deposit to ensure reclamation of 5015
the area on which reclamation is completed, within ten days of 5016
completing the inspection and evaluation, the chief shall order 5017
release of the remaining performance bond in the same manner as 5018
in the case of approval of reclamation other than required 5019
planting, and the ~~treasurer of state~~chief shall proceed as in 5020
that case. 5021

If the chief does not approve the reclamation performed by 5022
the operator, the chief shall notify the operator by certified 5023
mail within ninety days of the filing of the application for 5024
inspection or of the date when the chief learns of the default. 5025
The notice shall be an order stating the reasons for 5026
unacceptability, ordering further actions to be taken, and 5027
setting a time limit for compliance. If the operator does not 5028
comply with the order within the time limit specified, the chief 5029
may order an extension of time for compliance after determining 5030
that the operator's noncompliance is for good cause, resulting 5031
from developments partially or wholly beyond the operator's 5032
control. If the operator complies within the time limit or the 5033
extension of time granted for compliance, the chief shall order 5034
release of the remaining performance bond in the same manner as 5035
in the case of approval of reclamation by the chief, and the 5036
~~treasurer of state~~chief shall proceed as in that case. If the 5037
operator does not comply within the time limit and the chief 5038
does not order an extension, or if the chief orders an extension 5039
of time and the operator does not comply within the extension of 5040
time granted for compliance, the chief shall issue another order 5041
declaring that the operator has failed to reclaim and, if the 5042
operator's permit has not already expired or been revoked, 5043

revoking the operator's permit. The chief then shall proceed 5044
under division (C) of this section. 5045

(C) Upon issuing an order under division (A) or (B) of 5046
this section declaring that the operator has failed to reclaim, 5047
the chief shall make a finding as to the number and location of 5048
the acres of land that the operator has failed to reclaim in the 5049
manner required by this chapter. The chief shall order the 5050
release of the performance bond in the amount of five hundred 5051
dollars per acre for those acres that the chief finds to have 5052
been reclaimed in the manner required by this chapter. The 5053
release shall be ordered in the same manner as in the case of 5054
other approval of reclamation by the chief, and the ~~treasurer of~~ 5055
~~state~~ chief shall proceed as in that case. If the operator has on 5056
deposit cash, an irrevocable letter of credit, or certificates 5057
of deposit to ensure reclamation of the area of the land 5058
affected, the chief at the same time shall issue an order 5059
declaring that the remaining cash, irrevocable letter of credit, 5060
or certificates of deposit are the property of the state and are 5061
available for use by the chief in performing reclamation of the 5062
area and shall proceed in accordance with section 1514.06 of the 5063
Revised Code. 5064

If the operator has on deposit a surety bond to ensure 5065
reclamation of the area of land affected, the chief shall notify 5066
the surety in writing of the operator's default and shall 5067
request the surety to perform the surety's obligation and that 5068
of the operator. The surety, within ten days after receipt of 5069
the notice, shall notify the chief as to whether it intends to 5070
perform those obligations. 5071

If the surety chooses to perform, it shall arrange for 5072
work to begin within thirty days of the day on which it notifies 5073

the chief of its decision. If the surety completes the work as 5074
required by this chapter, the chief shall issue an order to the 5075
surety releasing the surety from liability under the bond in the 5076
same manner as if the surety were an operator proceeding under 5077
this section. If, after the surety begins the work, the chief 5078
determines that the surety is not carrying the work forward with 5079
reasonable progress, or that it is improperly performing the 5080
work, or that it has abandoned the work or otherwise failed to 5081
perform its obligation and that of the operator, the chief shall 5082
issue an order terminating the right of the surety to perform 5083
the work and demanding payment of the amount due as required by 5084
this chapter. 5085

If the surety chooses not to perform and so notifies the 5086
chief, does not respond to the chief's notice within ten days of 5087
receipt thereof, or fails to begin work within thirty days of 5088
the day it timely notifies the chief of its decision to perform 5089
its obligation and that of the operator, the chief shall issue 5090
an order terminating the right of the surety to perform the work 5091
and demanding payment of the amount due, as required by this 5092
chapter. 5093

Upon receipt of an order of the chief demanding payment of 5094
the amount due, the surety immediately shall deposit with the 5095
chief cash in the full amount due under the order for deposit 5096
with the ~~treasurer of state~~ chief. If the surety fails to make an 5097
immediate deposit, the chief shall certify it to the attorney 5098
general for collection. When the chief has issued an order 5099
terminating the right of the surety and has the cash on deposit, 5100
the cash is the property of the state and is available for use 5101
by the chief, who shall proceed in accordance with section 5102
1514.06 of the Revised Code. 5103

Sec. 1521.061. (A) (1) Except as otherwise provided in this 5104
section, the chief of the division of water resources shall not 5105
issue a construction permit under section 1521.06 of the Revised 5106
Code unless the person or governmental agency applying for the 5107
permit executes and files a surety bond conditioned on 5108
completion of the dam or levee in accordance with the terms of 5109
the permit and the plans and specifications approved by the 5110
chief. Except as provided in division (A) (2) of this section, 5111
the surety bond shall equal: 5112

(a) \$50,000 for the first \$500,000 of the estimated cost 5113
of the project; plus 5114

(b) Twenty-five per cent of the estimated cost for the 5115
next \$4,500,000 of the estimated cost of the project; plus 5116

(c) Ten per cent of the estimated cost that exceeds 5117
\$5,000,000. 5118

(2) The chief may reduce the amount of the required surety 5119
bond to the amount equal to the cost estimate of construction 5120
activities necessary to render the dam nonhazardous if the cost 5121
estimate is provided by the applicant and approved by the chief. 5122

(B) If a permittee requests an extension of the time 5123
period during which a construction permit is valid in accordance 5124
with rules adopted under section 1521.06 of the Revised Code, 5125
the chief shall determine whether the revised construction cost 5126
estimate provided with the request exceeds the original 5127
construction cost estimate that was filed with the chief by more 5128
than twenty-five per cent. If the revised construction cost 5129
estimate exceeds the original construction cost estimate by more 5130
than twenty-five per cent, the chief may require an additional 5131
surety bond to be filed in an amount determined in accordance 5132

with division (A) of this section based on the revised 5133
construction cost estimate. 5134

(C) The chief shall not approve any bond until it is 5135
personally signed and acknowledged by both principal and surety, 5136
or as to either by the attorney in fact thereof, with a 5137
certified copy of the power of attorney attached. The chief 5138
shall not approve the bond unless there is attached a 5139
certificate of the superintendent of insurance that the company 5140
is authorized to transact a fidelity and surety business in this 5141
state. 5142

All bonds shall be given in a form prescribed by the chief 5143
and shall run to the state as obligee. 5144

(D) (1) The applicant may deposit, in lieu of a bond, cash 5145
in an amount equal to the amount of the bond or ~~United States~~ 5146
~~government securities or~~ negotiable certificates of deposit 5147
issued by any bank organized or transacting business in this 5148
state having a par value equal to or greater than the amount of 5149
the bond. Such cash or securities shall be deposited upon the 5150
same terms as bonds. If one or more certificates of deposit are 5151
deposited in lieu of a bond, the chief shall require the bank 5152
that issued any such certificate to pledge securities of the 5153
aggregate market value equal to the amount of the certificate 5154
that is in excess of the amount insured by the federal deposit 5155
insurance corporation. The securities to be pledged shall be 5156
those designated as eligible under section 135.18 of the Revised 5157
Code. The securities shall be security for the repayment of the 5158
certificate of deposit. 5159

(2) ~~Immediately upon~~ Upon a deposit of cash, ~~securities,~~ 5160
or certificates of deposit, the chief shall ~~deliver them to the~~ 5161
~~treasurer of state, who shall~~ hold them in trust for the 5162

purposes for which they have been deposited. ~~The treasurer of~~ 5163
~~state is responsible for the safekeeping of such deposits. If~~ 5164
the applicant deposits cash, the cash shall be credited to the 5165
performance cash bond refunds fund created in section 1501.04 of 5166
the Revised Code. An applicant making a deposit of cash, ~~—~~ 5167
~~securities,~~ or certificates of deposit may withdraw and receive, — 5168
~~from the treasurer of state, on the written order of the chief,~~ 5169
all or any portion of the cash, ~~securities,~~ or certificates of 5170
deposit, ~~—~~ upon depositing with the ~~treasurer of state cash,~~ chief 5171
other ~~United States government securities, or negotiable~~ 5172
certificates of deposit issued by any bank organized or 5173
transacting business in this state equal in par value to the par 5174
value of the cash, ~~securities,~~ or certificates of deposit 5175
withdrawn. An applicant may demand and receive from the 5176
~~treasurer of state~~ chief all interest or other income from any 5177
such ~~securities or certificates~~ as it becomes due. If ~~securities—~~ 5178
certificates so deposited with and in the possession of the 5179
~~treasurer of state~~ chief mature or are called for payment by the 5180
issuer thereof, the ~~treasurer of state~~ chief, at the request of 5181
the applicant who deposited them, shall convert the proceeds of 5182
the redemption or payment of the ~~securities—~~ certificates into 5183
~~such other United States government securities,~~ negotiable 5184
certificates of deposit issued by any bank organized or 5185
transacting business in this state, or cash as the applicant 5186
designates. 5187

(E) (1) When the chief finds that a person or governmental 5188
agency has failed to comply with the conditions of the person's 5189
or agency's bond, the chief shall make a finding of that fact 5190
and declare the bond, cash, ~~securities,~~ or certificates of 5191
deposit forfeited in the amount set by rule of the chief. The 5192
chief shall thereupon certify the total forfeiture to the 5193

attorney general, who shall proceed to collect that amount. 5194

(2) In lieu of total forfeiture, the surety, at its 5195
option, may cause the dam or levee to be completed as required 5196
by section 1521.06 of the Revised Code and rules of the chief, 5197
or otherwise rendered nonhazardous, or pay to the ~~treasurer of~~ 5198
~~state chief~~ the cost thereof. 5199

(F) (1) All moneys collected on account of forfeitures of 5200
bonds, cash, ~~securities~~, and certificates of deposit under this 5201
section shall be credited to the dam safety fund created in 5202
section 1521.06 of the Revised Code. The chief shall make 5203
expenditures from the fund to complete dams and levees for which 5204
bonds have been forfeited or to otherwise render them 5205
nonhazardous. 5206

(2) Expenditures from the fund for those purposes shall be 5207
made pursuant to contracts entered into by the chief with 5208
persons who agree to furnish all of the materials, equipment, 5209
work, and labor as specified and provided in the contract. 5210

(G) A surety bond shall not be required for a permit for a 5211
dam or levee that is to be designed and constructed by an agency 5212
of the United States government, if the agency files with the 5213
chief written assurance of the agency's financial responsibility 5214
for the structure for one year following the chief's approval of 5215
the completed construction provided for under division (E) of 5216
section 1521.06 of the Revised Code. 5217

Sec. 1548.06. (A) (1) Application for a certificate of 5218
title for a watercraft or outboard motor shall be made upon a 5219
form prescribed by the chief of the division of parks and 5220
watercraft and shall be sworn to before a notary public or other 5221
officer empowered to administer oaths. The application shall be 5222

filed with the clerk of any court of common pleas. An 5223
application for a certificate of title may be filed 5224
electronically by any electronic means approved by the chief in 5225
any county with the clerk of the court of common pleas of that 5226
county. The application shall be accompanied by the fee 5227
prescribed in section 1548.10 of the Revised Code. The fee shall 5228
be retained by the clerk who issues the certificate of title and 5229
shall be distributed in accordance with that section. If a clerk 5230
of a court of common pleas, other than the clerk of the court of 5231
common pleas of an applicant's county of residence, issues a 5232
certificate of title to the applicant, the clerk shall transmit 5233
data related to the transaction to the automated title 5234
processing system. 5235

(2) If a certificate of title previously has been issued 5236
for the watercraft or outboard motor, the application for a 5237
certificate of title also shall be accompanied by the 5238
certificate of title duly assigned unless otherwise provided in 5239
this chapter. If a certificate of title previously has not been 5240
issued for the watercraft or outboard motor in this state, the 5241
application, unless otherwise provided in this chapter, shall be 5242
accompanied by a manufacturer's or importer's certificate; by a 5243
sworn statement of ownership if the watercraft or outboard motor 5244
was purchased by the applicant on or before October 9, 1963, or 5245
if the watercraft is less than fourteen feet long with a 5246
permanently affixed mechanical means of propulsion and was 5247
purchased by the applicant on or before January 1, 2000; or by a 5248
certificate of title, bill of sale, or other evidence of 5249
ownership required by the law of another state from which the 5250
watercraft or outboard motor was brought into this state. 5251
Evidence of ownership of a watercraft or outboard motor for 5252
which an Ohio certificate of title previously has not been 5253

issued and which watercraft or outboard motor does not have 5254
permanently affixed to it a manufacturer's serial number shall 5255
be accompanied by the certificate of assignment of a hull 5256
identification number assigned by the chief as provided in 5257
section 1548.07 of the Revised Code. 5258

(3) The clerk shall retain the evidence of title presented 5259
by the applicant and on which the certificate of title is 5260
issued, except that, if an application for a certificate of 5261
title is filed electronically, by a vendor on behalf of a 5262
purchaser of a watercraft or outboard motor, the clerk shall 5263
retain the completed electronic record to which the vendor 5264
converted the certificate of title application and other 5265
required documents. The chief, after consultation with the 5266
attorney general, shall adopt rules that govern the location at 5267
which, and the manner in which, are stored the actual 5268
application and all other documents relating to the sale of a 5269
watercraft or outboard motor when a vendor files the application 5270
for a certificate of title electronically on behalf of a 5271
purchaser. 5272

(B) The clerk shall use reasonable diligence in 5273
ascertaining whether the facts in the application are true by 5274
checking the application and documents accompanying it or the 5275
electronic record to which a vendor converted the application 5276
and accompanying documents with the records of watercraft and 5277
outboard motors in the clerk's office. If the clerk is satisfied 5278
that the applicant is the owner of the watercraft or outboard 5279
motor and that the application is in the proper form, the clerk 5280
shall issue a physical certificate of title over the clerk's 5281
signature and sealed with the clerk's seal unless the applicant 5282
specifically requests the clerk not to issue a physical 5283
certificate of title and instead to issue an electronic 5284

certificate of title. However, if the evidence indicates and an 5285
investigation shows that one or more Ohio titles already exist 5286
for the watercraft or outboard motor, the chief may cause the 5287
redundant title or titles to be canceled. 5288

(C) In the case of the sale of a watercraft or outboard 5289
motor by a vendor to a general purchaser or user, the 5290
certificate of title shall be obtained in the name of the 5291
purchaser by the vendor upon application signed by the 5292
purchaser. In all other cases, the certificate shall be obtained 5293
by the purchaser. In all cases of transfer of watercraft or 5294
outboard motors, the application for certificate of title shall 5295
be filed within thirty days after the later of the date of 5296
purchase or assignment of ownership of the watercraft or 5297
outboard motor. If the application for certificate of title is 5298
not filed within thirty days after the later of the date of 5299
purchase or assignment of ownership of the watercraft or 5300
outboard motor, the clerk shall charge a late penalty fee of 5301
five dollars in addition to the fee prescribed by section 5302
1548.10 of the Revised Code. The clerk shall retain the entire 5303
amount of each late penalty fee. 5304

(D) The clerk shall refuse to accept an application for 5305
certificate of title unless the applicant either tenders with 5306
the application payment of all taxes levied by or pursuant to 5307
Chapter 5739. or 5741. of the Revised Code based on the 5308
applicant's county of residence less, in the case of a sale by a 5309
vendor, any discount to which the vendor is entitled under 5310
section 5739.12 of the Revised Code, or submits any of the 5311
following: 5312

(1) A receipt issued by the tax commissioner or a clerk of 5313
courts showing payment of the tax; 5314

(2) A copy of the unit certificate of exemption completed 5315
by the purchaser at the time of sale as provided in section 5316
5739.03 of the Revised Code; 5317

(3) An exemption certificate, in a form prescribed by the 5318
tax commissioner, that specifies why the purchase is not subject 5319
to the tax imposed by Chapter 5739. or 5741. of the Revised 5320
Code. 5321

Payment of the tax shall be in accordance with rules 5322
issued by the tax commissioner, and the clerk shall issue a 5323
receipt in the form prescribed by the tax commissioner to any 5324
applicant who tenders payment of the tax with the application 5325
for the certificate of title. 5326

(E) (1) For receiving and disbursing the taxes paid to the 5327
clerk by a resident of the clerk's county, the clerk may retain 5328
a poundage fee of one and one one-hundredth per cent of the 5329
taxes collected, which shall be paid into the certificate of 5330
title administration fund created by section 325.33 of the 5331
Revised Code. The clerk shall not retain a poundage fee from 5332
payments of taxes by persons who do not reside in the clerk's 5333
county. 5334

(2) A clerk, however, may retain from the taxes paid to 5335
the clerk an amount equal to the poundage fees associated with 5336
certificates of title issued by other clerks of courts of common 5337
pleas to applicants who reside in the first clerk's county. The 5338
chief of the division of parks and watercraft, in consultation 5339
with the tax commissioner and the clerks of the courts of common 5340
pleas, shall develop a report from the automated title 5341
processing system that informs each clerk of the amount of the 5342
poundage fees that the clerk is permitted to retain from those 5343
taxes because of certificates of title issued by the clerks of 5344

other counties to applicants who reside in the first clerk's 5345
county. 5346

(F) In the case of casual sales of watercraft or outboard 5347
motors that are subject to the tax imposed by Chapter 5739. or 5348
5741. of the Revised Code, the purchase price for the purpose of 5349
determining the tax shall be the purchase price on an affidavit 5350
executed and filed with the clerk by the vendor on a form to be 5351
prescribed by the chief, which shall be prima-facie evidence of 5352
the price for the determination of the tax. In addition to the 5353
information required by section 1548.08 of the Revised Code, 5354
each certificate of title shall contain in boldlettering the 5355
following notification and statements: "WARNING TO TRANSFEROR 5356
AND TRANSFEREE (SELLER AND BUYER). You are required by law to 5357
state the true selling price. A false statement is a violation 5358
of section 2921.13 of the Revised Code and is punishable by six 5359
months imprisonment or a fine of up to one thousand dollars, or 5360
both. All transfers are audited by the department of taxation. 5361
The seller and buyer must provide any information requested by 5362
the department of taxation. The buyer may be assessed any 5363
additional tax found to be due." 5364

(G) Each county clerk of courts shall forward to the 5365
~~treasurer of state~~ tax commissioner all sales and use tax 5366
collections resulting from sales of titled watercraft and 5367
outboard motors during a calendar week on or before the Friday 5368
following the close of that week. If, on any Friday, the offices 5369
of the clerk of courts or the state are not open for business, 5370
the tax shall be forwarded to the ~~treasurer of state~~ 5371
commissioner on or before the next day on which the offices are 5372
open. Every remittance of tax under this division shall be 5373
accompanied by a remittance report in such form as the ~~tax~~ 5374
commissioner prescribes. ~~Upon receipt of a tax remittance and~~ 5375

~~remittance report, the treasurer of state shall date stamp the~~ 5376
~~report and forward it to the tax commissioner.~~ If the tax due 5377
for any week is not remitted by a clerk of courts as required 5378
under this division, the clerk shall forfeit the poundage fees 5379
for the sales made during that week. The ~~treasurer of state~~ 5380
commissioner may require the clerks of courts to transmit tax 5381
collections and remittance reports electronically. 5382

(H) For purposes of a transfer of a certificate of title, 5383
if the clerk is satisfied that a secured party has discharged a 5384
lien but has not canceled the lien notation with a clerk, the 5385
clerk may cancel the lien notation on the automated title 5386
processing system and notify the clerk of the county of origin. 5387

(I) Every clerk shall have the capability to transact by 5388
electronic means all procedures and transactions relating to the 5389
issuance of watercraft or outboard motor certificates of title 5390
that are described in the Revised Code as being accomplished by 5391
electronic means. 5392

Sec. 1733.04. (A) In addition to the authority conferred 5393
by section 1701.13 of the Revised Code, but subject to any 5394
limitations contained in sections 1733.01 to 1733.45 of the 5395
Revised Code, and its articles and regulations, a credit union 5396
may do any of the following: 5397

(1) Make loans as provided in section 1733.25 of the 5398
Revised Code; 5399

(2) Invest its money as provided in section 1733.30 of the 5400
Revised Code; 5401

(3) If authorized by the code of regulations, rebate to 5402
the borrowing members a portion of the member's interest paid to 5403
the credit union; 5404

(4) If authorized by the regulations, charge a membership	5405
or entrance fee;	5406
(5) Purchase group savings life insurance and group credit	5407
life insurance;	5408
(6) Make reasonable contributions to any nonprofit civic,	5409
charitable, or service organizations;	5410
(7) Act as trustee or custodian, for which reasonable	5411
compensation may be received, under any written trust instrument	5412
or custodial agreement created or organized in the United States	5413
and forming part of a tax-advantaged savings plan that qualifies	5414
for specific tax treatment under sections 223, 401(d), 408,	5415
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223,	5416
401(d), 408, 408A, and 530, as amended, for its members or	5417
groups of its members, provided that the funds of such plans are	5418
invested in share accounts or share certificate accounts of the	5419
credit union. These services include, but are not limited to,	5420
acting as a trustee or custodian for member retirement,	5421
education, or health savings accounts.	5422
(8) Participate in and pledge assets in connection with	5423
the business-linked deposit program programs under sections	5424
135.77 to 135.774 of the Revised Code, the agricultural linked-	5425
deposit program under sections 135.71 to 135.76 of the Revised-	5426
Code, and the adoption linked deposit program under sections-	5427
135.79 to 135.796-135.61 to 135.66 of the Revised Code.	5428
(B) The authority of a credit union shall be subject to	5429
the following:	5430
(1) A credit union may not borrow money in excess of	5431
twenty-five per cent of its shares and undivided earnings,	5432
without prior specific authorization by the superintendent of	5433

credit unions. 5434

(2) A credit union may not pay a commission or other 5435
compensation to any person for securing members or for the sale 5436
of its shares, except that reasonable incentives may be made 5437
available directly to members or potential members to promote 5438
thrift. 5439

(C) (1) A credit union may have service facilities other 5440
than its home office. 5441

(2) Real estate may be acquired by lease, purchase, or 5442
otherwise as necessary and to the extent required for use of the 5443
credit union presently and in the future operation of its office 5444
or headquarters, and in case of a purchase of real estate, the 5445
superintendent must first be notified in writing prior to the 5446
purchase of the real estate. Nothing herein contained shall be 5447
deemed to prohibit a credit union from taking title to real 5448
estate in connection with a default in the payment of a loan, 5449
provided that title to such real estate shall not be held by the 5450
credit union for more than two years without the prior written 5451
approval of the superintendent. A credit union also may lease 5452
space in any real estate it acquires in accordance with rules 5453
adopted by the superintendent. 5454

(D) (1) As used in division (D) of this section: 5455

(a) "School" means an elementary or secondary school. 5456

(b) "Student" means a child enrolled in a school. 5457

(c) "Student branch" means the designation provided to the 5458
credit union for the in-school services and financial education 5459
offered to students. 5460

(2) A credit union, upon agreement with a school board, in 5461

the case of a public school, or the governing authority, in the 5462
case of a nonpublic school, and with the permission of the 5463
superintendent, may open and maintain a student branch. 5464

(3) Notwithstanding any other provision of this section, 5465
any student enrolled in the school maintaining a student branch 5466
who is not otherwise qualified for membership in the credit 5467
union maintaining the student branch is qualified to be a member 5468
of that student branch. 5469

(4) The student's membership in the student branch expires 5470
upon the student's graduation from secondary school. 5471

(5) The student branch is for the express use of students 5472
and may not be used by faculty, staff, or lineal ancestors or 5473
~~descendants~~ descendants of students. 5474

(6) Faculty, staff, or lineal ancestors or ~~descendants~~ 5475
descendants of students are not eligible for membership in the 5476
credit union maintaining the student branch unless otherwise 5477
qualified by this section to be members. 5478

(7) The superintendent may adopt rules appropriate to the 5479
formation and operation of student branches. 5480

(E) A credit union may guarantee the signature of a member 5481
in connection with a transaction involving tangible or 5482
intangible property in which a member has or seeks to acquire an 5483
interest. 5484

Sec. 1733.24. (A) A credit union is authorized to receive 5485
funds for deposit in share accounts, share draft accounts, and 5486
share certificates from its members, from other credit unions, 5487
and from an officer, employee, or agent of the federal, state, 5488
or local governments, or political subdivisions of the state, in 5489
accordance with such terms, rates, and conditions as may be 5490

established by its board of directors, and for purposes of the 5491
~~agricultural-linked deposit program~~ programs created under 5492
sections ~~135.71 to 135.76~~ of the Revised Code, ~~the business-~~ 5493
~~linked deposit program created under sections 135.77 to 135.774-~~ 5494
~~of the Revised Code, and the adoption linked deposit program-~~ 5495
~~under sections 135.79 to 135.796~~ 135.61 to 135.66 of the Revised 5496
Code. 5497

(B) The shares and share accounts of the credit union may 5498
be of one or more classes, as designated by the board of 5499
directors, subject to approval of the superintendent of credit 5500
unions based on rules that shall assure equitable distribution 5501
of dividends among classes, considering costs and advantages of 5502
each class to the members of the credit union, including without 5503
limitation special services rendered, length of ownership, 5504
minimum investment, conditions of repurchase, and other 5505
appropriate standards or combinations thereof. In the event the 5506
articles of incorporation of the credit union indicate the 5507
authorized number of shares to be unlimited, the designation of 5508
classification of shares and share accounts of the credit union 5509
may be effected by the board of directors, subject to the 5510
approval of the superintendent, and does not require amendment 5511
of the articles of incorporation. All shares of the credit union 5512
shall have a par value per share as set by the board of 5513
directors. Redemptions and liquidating dividends shall be 5514
prorated to each member on the basis of the price paid the 5515
credit union for such share, irrespective of the class of such 5516
shares. 5517

(C) (1) Each credit union shall have one class of shares 5518
designated as "membership share." The membership shares, or if a 5519
credit union has but one class of shares, then all of the shares 5520
of the credit union, shall have a par value as set by the board 5521

of directors. 5522

(2) Two or more persons that are eligible for membership 5523
that have jointly subscribed for one or more shares under a 5524
joint account each may be admitted to membership. 5525

(D) A credit union need not issue certificates for any or 5526
all of its classes of shares but irrespective of whether 5527
certificates are issued, a registry of shares must be kept, 5528
including all of the transactions of the credit union pertaining 5529
to such shares. 5530

(E) A credit union is authorized to maintain share draft 5531
accounts in accordance with rules prescribed by the 5532
superintendent. The credit union may pay dividends on share 5533
draft accounts, may pay dividends at different rates on 5534
different types of share draft accounts, and may permit the 5535
owners of such share draft accounts to make withdrawals by 5536
negotiable or transferable instruments or other orders for the 5537
purpose of making transfers to third parties. 5538

(F) Unless otherwise provided by written agreement of the 5539
parties, the rights, responsibilities, and liabilities attaching 5540
to a share draft withdrawn from, transferred to, or otherwise 5541
handled by a credit union are defined in and governed by 5542
Chapters 1303. and 1304. of the Revised Code, as if the credit 5543
union were a bank. 5544

(G) Unless otherwise provided in the articles or 5545
regulations, a member may designate any person or persons to own 5546
or hold shares, or share accounts with the member in joint 5547
tenancy with right of survivorship and not as tenants in common. 5548

(H) Shares or share accounts may be issued in the name of 5549
a custodian under the Ohio transfers to minors act, a member in 5550

trust for a beneficiary, a fiduciary or custodian in trust for a 5551
member beneficiary, or a fiduciary or custodian in trust upon 5552
the death of a member. Redemption of such shares or payment of 5553
such share accounts to a member, to the extent of the payment, 5554
discharges the liability of the credit union to the member and 5555
the beneficiary, and the credit union shall be under no 5556
obligation to see to the application of the payment. Unless 5557
prior to the death of a member, the member has notified the 5558
credit union in writing in a form approved by the credit union 5559
of a different beneficiary to receive the proceeds of such 5560
shares or share accounts, then the proceeds shall be paid to the 5561
beneficiary or to the beneficiary's parent or legal 5562
representative. Any payment made pursuant to written 5563
instructions of the member or pursuant to the provisions herein 5564
contained shall be a valid and sufficient release and discharge 5565
of the credit union in connection with any such share or share 5566
accounts. 5567

(I) (1) Except as otherwise provided in the articles or 5568
regulations, and subject to the provisions thereof, a minor may 5569
purchase shares, share accounts, or other depository 5570
instruments, and except for qualification as a voting member, 5571
the credit union may deal with the minor with respect to shares, 5572
share accounts, or other depository instruments owned by the 5573
minor as if the minor were a person of legal age. 5574

(2) If shares, share accounts, or other depository 5575
instruments are issued in the name of a minor, redemption of any 5576
part or all of the shares or withdrawal of funds by payment to 5577
the minor of the shares or funds and any declared dividends or 5578
interest releases the credit union from all obligation to the 5579
minor as to the shares reduced or funds withdrawn. 5580

(J) The regulations may require advance written notice of 5581
a member's intention to withdraw the member's shares. Such 5582
advance notice shall not exceed sixty days. 5583

(K) Notwithstanding any provision of law to the contrary, 5584
funds deposited in a share account, share certificate, or in any 5585
other manner pursuant to a program offered by a credit union to 5586
promote consumer savings do not constitute valuable 5587
consideration for purposes of a scheme of chance under Chapter 5588
2915. of the Revised Code. 5589

Sec. 1735.03. No title guarantee and trust company shall 5590
do business until it has deposited with the ~~treasurer of state~~ 5591
superintendent of insurance fifty thousand dollars, in 5592
securities permitted by sections 3925.05, 3925.06, and 3925.08 5593
of the Revised Code. The ~~treasurer of state~~ superintendent shall 5594
hold such securities deposited with ~~him~~ the superintendent as 5595
security for the faithful performance of all guarantees entered 5596
into and all trusts accepted by such company, but so long as it 5597
continues solvent ~~he~~ the superintendent shall permit it to 5598
collect the interest of, or dividends or distributions on, its 5599
securities so deposited, and to withdraw any of such securities 5600
on depositing with ~~him~~ the superintendent cash or other 5601
securities of the kind specified in this section so as to 5602
maintain the value of such deposit at fifty thousand dollars. 5603

If such a company has made such deposits with the 5604
~~treasurer of state~~ superintendent of insurance, it may request 5605
~~him~~ the superintendent to return to it securities held by ~~him~~ 5606
the superintendent in such deposit in excess of the amount 5607
required, and ~~he~~ the superintendent shall then surrender such 5608
excess to the company, taking proper receipts therefor. 5609

Sec. 2109.37. (A) Except as otherwise provided by law, 5610

including division (D) of this section, or by the instrument 5611
creating the trust, a fiduciary having funds belonging to a 5612
trust that are to be invested may invest them in the following: 5613

(1) Bonds or other obligations of the United States or of 5614
this state; 5615

(2) Bonds or other interest-bearing obligations of any 5616
county, municipal corporation, school district, or other legally 5617
constituted political taxing subdivision within the state, 5618
provided that the county, municipal corporation, school 5619
district, or other subdivision has not defaulted in the payment 5620
of the interest on any of its bonds or interest-bearing 5621
obligations, for more than one hundred twenty days during the 5622
ten years immediately preceding the investment by the fiduciary 5623
in the bonds or other obligations, and provided that the county, 5624
municipal corporation, school district, or other subdivision, is 5625
not, at the time of the investment, in default in the payment of 5626
principal or interest on any of its bonds or other interest- 5627
bearing obligations; 5628

(3) Bonds or other interest-bearing obligations of any 5629
other state of the United States which, within twenty years 5630
prior to the making of that investment, has not defaulted for 5631
more than ninety days in the payment of principal or interest on 5632
any of its bonds or other interest-bearing obligations; 5633

(4) Any bonds issued by or for federal land banks and any 5634
debentures issued by or for federal intermediate credit banks 5635
under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 5636
U.S.C.A. 641, as amended; or any debentures issued by or for 5637
banks for cooperatives under the "Farm Credit Act of 1933," 48 5638
Stat. 257, 12 U.S.C.A. 131, as amended; 5639

(5) Notes that are: (a) secured by a first mortgage on 5640
real property held in fee and located in the state, improved by 5641
a unit designed principally for residential use for not more 5642
than four families or by a combination of that dwelling unit and 5643
business property, the area designed or used for nonresidential 5644
purposes not to exceed fifty per cent of the total floor area; 5645
(b) secured by a first mortgage on real property held in fee and 5646
located in the state, improved with a building designed for 5647
residential use for more than four families or with a building 5648
used primarily for business purposes, if the unpaid principal of 5649
the notes secured by that mortgage does not exceed ten per cent 5650
of the value of the estate or trust or does not exceed five 5651
thousand dollars, whichever is greater; or (c) secured by a 5652
first mortgage on an improved farm held in fee and located in 5653
the state, provided that the mortgage requires that the 5654
buildings on the mortgaged property shall be well insured 5655
against loss by fire, and so kept, for the benefit of the 5656
mortgagee, until the debt is paid, and provided that the unpaid 5657
principal of the notes secured by the mortgage shall not exceed 5658
fifty per cent of the fair value of the mortgaged real property 5659
at the time the investment is made, and the notes shall be 5660
payable not more than five years after the date on which the 5661
investment in them is made; except that the unpaid principal of 5662
the notes may equal sixty per cent of the fair value of the 5663
mortgaged real property at the time the investment is made, and 5664
may be payable over a period of fifteen years following the date 5665
of the investment by the fiduciary if regular installment 5666
payments are required sufficient to amortize four per cent or 5667
more of the principal of the outstanding notes per annum and if 5668
the unpaid principal and interest become due and payable at the 5669
option of the holder upon any default in the payment of any 5670
installment of interest or principal upon the notes, or of 5671

taxes, assessments, or insurance premiums upon the mortgaged 5672
premises or upon the failure to cure any such default within any 5673
grace period provided in the notes not exceeding ninety days in 5674
duration; 5675

(6) Life, endowment, or annuity contracts of legal reserve 5676
life insurance companies regulated by sections 3907.01 to 5677
3907.21, 3909.01 to 3909.17, 3911.01 to 3911.24, 3913.01 to 5678
3913.10, 3915.01 to 3915.15, and 3917.01 to 3917.05 of the 5679
Revised Code, and licensed by the superintendent of insurance to 5680
transact business within the state, provided that the purchase 5681
of contracts authorized by this division shall be limited to 5682
executors or the successors to their powers when specifically 5683
authorized by will and to guardians and trustees, which 5684
contracts may be issued on the life of a ward, a beneficiary of 5685
a trust fund, or according to a will, or upon the life of a 5686
person in whom the ward or beneficiary has an insurable interest 5687
and the contracts shall be drawn by the insuring company so that 5688
the proceeds shall be the sole property of the person whose 5689
funds are so invested; 5690

(7) Notes or bonds secured by mortgages and insured by the 5691
federal housing administrator or debentures issued by that 5692
administrator; 5693

(8) Obligations issued by a federal home loan bank created 5694
under the "Federal Home Loan Bank Act of 1932," 47 Stat. 725, 12 5695
U.S.C.A. 1421, as amended; 5696

(9) Shares and certificates or other evidences of deposits 5697
issued by a federal savings and loan association organized and 5698
incorporated under the "Home Owners' Loan Act of 1933," 48 Stat. 5699
128, 12 U.S.C.A. 1461, as amended, to the extent and only to the 5700
extent that those shares or certificates or other evidences of 5701

deposits are insured pursuant to the "Financial Institutions 5702
Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 5703
12 U.S.C.A. 1811, as amended; 5704

(10) Bonds issued by the home owners' loan corporation 5705
created under the "Home Owners' Act of 1933," 48 Stat. 128, 12 5706
U.S.C.A. 1461, as amended; 5707

(11) Obligations issued by the national mortgage 5708
association created under the "National Housing Act," 48 Stat. 5709
1246 (1934), 12 U.S.C.A. 1701, as amended; 5710

(12) Shares and certificates or other evidences of 5711
deposits issued by a domestic savings and loan association 5712
organized under the laws of the state, which association has 5713
obtained insurance of accounts pursuant to the "Financial 5714
Institutions Reform, Recovery, and Enforcement Act of 1989," 103 5715
Stat. 183, 12 U.S.C.A. 1811, as amended, or as may be otherwise 5716
provided by law, only to the extent that the evidences of 5717
deposits are insured under that act, as amended; 5718

(13) Shares and certificates or other evidences of 5719
deposits issued by a domestic savings and loan association 5720
organized under the laws of the state, provided that no 5721
fiduciary may invest the deposits except with the approval of 5722
the probate court, and then in an amount not to exceed the 5723
amount that the fiduciary is permitted to invest under division 5724
(A) (12) of this section; 5725

(14) In savings accounts in, or certificates or other 5726
evidences of deposits issued by, a national bank located in the 5727
state or a state bank located in and organized under the laws of 5728
the state or a state credit union located and organized under 5729
the laws of the state or a federal credit union located in the 5730

state by depositing the funds in the bank or credit union, and 5731
the national or state bank or the federal or state credit union 5732
when itself acting in a fiduciary capacity may deposit the funds 5733
in savings accounts in, or certificates or other evidences of 5734
deposits issued by, its own savings department or any bank 5735
subsidiary corporation owned or controlled by the bank holding 5736
company that owns or controls the national or state bank; 5737
provided that no deposit shall be made by any fiduciary, 5738
individual or corporate, unless the deposits of the depository 5739
bank are insured by the federal deposit insurance corporation 5740
created under the "Federal Deposit Insurance Corporation Act of 5741
1933," 48 Stat. 162, 12 U.S.C. 264, as amended, or provided that 5742
no deposit shall be made by any fiduciary, individual or 5743
corporate, unless the deposits of the depository credit union 5744
are insured by the national credit union administration created 5745
under the "Federal Credit Union Act of 1934," 48 Stat. 1216, 12 5746
U.S.C. 1751, as amended, or the deposits of the depository 5747
credit union are insured by a share guaranty corporation as 5748
defined in Chapter 1761. of the Revised Code, and provided that 5749
the deposit of the funds of any one trust in those savings 5750
accounts in, or certificates or other evidences of deposits 5751
issued by, any one bank or credit union shall not exceed the sum 5752
insured under those acts, as amended, or under Chapter 1761. of 5753
the Revised Code; 5754

(15) Obligations consisting of notes, bonds, debentures, 5755
or equipment trust certificates issued under an indenture that 5756
are the direct obligations, or in the case of equipment trust 5757
certificates are secured by direct obligations, of a railroad or 5758
industrial corporation, or a corporation engaged directly and 5759
primarily in the production, transportation, distribution, or 5760
sale of electricity or gas, or the operation of telephone or 5761

telegraph systems or waterworks, or in some combination of them; 5762
provided that the obligor corporation is one that is 5763
incorporated under the laws of the United States, any state, the 5764
District of Columbia, or foreign government, and the obligations 5765
are rated at the time of purchase in the highest or next highest 5766
classification established by at least two ~~standard~~ statistical 5767
rating ~~services~~ organizations selected from a list of the 5768
~~standard~~ statistical rating ~~services~~ organizations that shall be 5769
prescribed by the superintendent of financial institutions; 5770
provided that every such list shall be certified by the 5771
superintendent to the clerk of each probate court in the state, 5772
and shall continue in effect until a different list is 5773
prescribed and certified as provided in this division; 5774

(16) Obligations issued, assumed, or guaranteed by the 5775
international finance corporation or by the international bank 5776
for reconstruction and development, the Asian development bank, 5777
the inter-American development bank, the African development 5778
bank, or other similar development bank in which the president, 5779
as authorized by congress and on behalf of the United States, 5780
has accepted membership, provided that the obligations are rated 5781
at the time of purchase in the highest or next highest 5782
classification established by at least one ~~standard~~ statistical 5783
rating ~~service~~ organization selected from a list of ~~standard~~ 5784
statistical rating ~~services~~ organizations that shall be 5785
prescribed by the superintendent of financial institutions; 5786

(17) Securities of any investment company, as defined in 5787
and registered under sections 3 and 8 of the "Investment Company 5788
Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8, that 5789
are invested exclusively in forms of investment or in 5790
instruments that are fully collateralized by forms of investment 5791
in which the fiduciary is permitted to invest pursuant to 5792

divisions (A) (1) to (16) of this section, provided that, in 5793
addition to those forms of investment, the investment company 5794
may, for the purpose of reducing risk of loss or of stabilizing 5795
investment returns, engage in hedging transactions. 5796

(B) No administrator or executor may invest funds 5797
belonging to an estate in any asset other than a direct 5798
obligation of the United States that has a maturity date not 5799
exceeding one year from the date of investment, or other than in 5800
a short-term investment fund that is invested exclusively in 5801
obligations of the United States or of its agencies, or 5802
primarily in those obligations and otherwise only in variable 5803
demand notes, corporate money market instruments including, but 5804
not limited to, commercial paper, or fully collateralized 5805
repurchase agreements or other evidences of indebtedness that 5806
are payable on demand or generally have a maturity date not 5807
exceeding ninety-one days from the date of investment, except 5808
with the approval of the probate court or with the permission of 5809
the instruments creating the trust. 5810

(C) (1) In addition to the investments allowed by this 5811
section, a guardian or trustee, with the approval of the court, 5812
may invest funds belonging to the trust in productive real 5813
property located within the state, provided that neither the 5814
guardian nor the trustee nor any member of the family of either 5815
has any interest in the real property or in the proceeds of the 5816
purchase price. The title to any real property so purchased by a 5817
guardian shall be taken in the name of the ward. 5818

(2) Notwithstanding the provisions of division (C) (1) of 5819
this section, the court may permit the funds to be used to 5820
purchase or acquire a home for the ward or an interest in a home 5821
for the ward in which a member of the ward's family may have an 5822

interest. After the filing of the petition by a guardian or a conservator for authority to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest, the matter shall be set for a hearing before the probate court.

(D) If the fiduciary is a trustee appointed by and accountable to the probate court, the fiduciary shall invest the trust's assets pursuant to the requirements and standards set forth in the Ohio Uniform Prudent Investor Act.

Sec. 2109.372. (A) As used in this section:

(1) "Short term trust-quality investment fund" means a short term investment fund that meets both of the following conditions:

(a) The fund may be either a collective investment fund established in accordance with section 1111.14 of the Revised Code or a registered investment company, including any affiliated investment company whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same registered investment company or affiliated investment company.

(b) The fund is invested in any one or more of the following manners:

(i) In obligations of the United States or of its agencies;

(ii) In obligations of one or more of the states of the United States or their political subdivisions;

(iii) In obligations of foreign governments or states;

(iv) In variable demand notes, corporate money market

instruments including, but not limited to, commercial paper 5851
rated at the time of purchase in either of the two highest 5852
classifications established by at least one nationally 5853
recognized ~~standard~~ statistical rating service organization; 5854

(v) Deposits in banks, savings banks, or savings and loan 5855
associations, whose deposits are insured by the federal deposit 5856
insurance corporation, or in credit unions insured by the 5857
national credit union administration or by a credit union share 5858
guaranty corporation established under Chapter 1761. of the 5859
Revised Code, if the rate of interest paid on those deposits is 5860
at least equal to the rate of interest generally paid by those 5861
banks, savings banks, savings and loan associations, or credit 5862
unions on deposits of similar terms or amounts; 5863

(vi) In fully collateralized repurchase agreements or 5864
other evidences of indebtedness that are of trust quality and 5865
are payable on demand or have a maturity date consistent with 5866
the purpose of the fund and the duty of fiduciary prudence. 5867

(2) "Registered investment company" means any investment 5868
company that is defined in and registered under sections 3 and 8 5869
of the "Investment Company Act of 1940," 54 Stat. 789, 15 5870
U.S.C.A. 80a-3 and 80a-8. 5871

(3) "Affiliated investment company" has the same meaning 5872
as in division (E) (1) of section 1111.13 of the Revised Code. 5873

(B) A fiduciary is not required to invest cash that 5874
belongs to the trust and may hold that cash for the period prior 5875
to distribution if either of the following applies: 5876

(1) The fiduciary reasonably expects to do either of the 5877
following: 5878

(a) Distribute the cash to beneficiaries of the trust on a 5879

quarterly or more frequent basis;	5880
(b) Use the cash for the payment of debts, taxes, or	5881
expenses of administration within the ninety-day period	5882
following the receipt of the cash by the fiduciary.	5883
(2) Determined on the basis of the facilities available to	5884
the fiduciary and the amount of the income that reasonably could	5885
be earned by the investment of the cash, the amount of the cash	5886
does not justify the administrative burden or expense associated	5887
with its investment.	5888
(C) If a fiduciary wishes to hold funds that belong to the	5889
trust in liquid form and division (B) of this section does not	5890
apply, the fiduciary may so hold the funds as long as they are	5891
temporarily invested as described in division (D) of this	5892
section.	5893
(D) (1) A fiduciary may make a temporary investment of cash	5894
that the fiduciary may hold uninvested in accordance with	5895
division (B) of this section, and shall make a temporary	5896
investment of funds held in liquid form pursuant to division (C)	5897
of this section, in any of the following investments, unless the	5898
governing instrument provides for other investments in which the	5899
temporary investment of cash or funds is permitted:	5900
(a) A short term trust-quality investment fund;	5901
(b) Direct obligations of the United States or of its	5902
agencies;	5903
(c) A deposit with a bank, savings bank, savings and loan	5904
association, or credit union, including a deposit with the	5905
fiduciary itself or any bank subsidiary corporation owned or	5906
controlled by the bank holding company that owns or controls the	5907
fiduciary, whose deposits are insured by the federal deposit	5908

insurance corporation, if the rate of interest paid on that 5909
deposit is at least equal to the rate of interest generally paid 5910
by that bank, savings bank, savings and loan association, or 5911
credit union on deposits of similar terms or amounts. 5912

(2) A fiduciary that makes a temporary investment of cash 5913
or funds pursuant to division (D)(1) of this section may charge 5914
a reasonable fee for the services associated with that 5915
investment. The fee shall be in addition to the compensation to 5916
which the fiduciary is entitled for ordinary fiduciary services. 5917

(3) Fiduciaries that make one or more temporary 5918
investments of cash or funds pursuant to division (D)(1) of this 5919
section shall provide to the beneficiaries of the trusts 5920
involved, that are currently receiving income or have a right to 5921
receive income, a written disclosure of their temporary 5922
investment practices and, if applicable, the method of computing 5923
reasonable fees for their temporary investment services pursuant 5924
to division (D)(2) of this section. Fiduciaries may comply with 5925
this requirement in any appropriate written document, including, 5926
but not limited to, any periodic statement or account. 5927

(4) A fiduciary that makes a temporary investment of cash 5928
or funds in an affiliated investment company pursuant to 5929
division (D)(1)(a) of this section shall, when providing any 5930
periodic account statements of its temporary investment 5931
practices, report the net asset value of the shares comprising 5932
the investment in the affiliated investment company. 5933

(5) If a fiduciary that makes a temporary investment of 5934
cash or funds in an affiliated investment company pursuant to 5935
division (D)(1)(a) of this section invests in any mutual fund, 5936
the fiduciary shall provide to the beneficiaries of the trust 5937
involved, that are currently receiving income or have a right to 5938

receive income, a written disclosure, in at least ten-point 5939
boldface type, that the mutual fund is not insured or guaranteed 5940
by the federal deposit insurance corporation or by any other 5941
government agency or government-sponsored agency of the federal 5942
government or of this state. 5943

Sec. 2109.44. (A) Fiduciaries shall not buy from or sell 5944
to themselves and shall not have in their individual capacities 5945
any dealings with the estate, except as expressly authorized by 5946
the instrument creating the trust and then only with the 5947
approval of the probate court in each instance. No corporate 5948
fiduciary, as defined in section 1101.01 of the Revised Code, 5949
that is not subject to examination or regulatory oversight by 5950
the superintendent of financial institutions, ~~or the comptroller~~ 5951
~~of the currency, or the office of thrift supervision~~ shall be 5952
permitted to deal with the estate, any power in the instrument 5953
creating the trust to the contrary notwithstanding. This section 5954
does not prohibit a fiduciary from making an advancement if the 5955
advancement has been expressly authorized by the instrument 5956
creating the trust or if the probate court approves or from 5957
engaging in any act authorized by this chapter. 5958

(B) The fiduciary may petition the court for authority to 5959
purchase property of the estate if all of the following 5960
requirements are met: 5961

(1) Written consent to the purchase is signed by the 5962
following: 5963

(a) Each known heir whose interest in the estate would be 5964
affected by the proposed purchase; 5965

(b) Each known devisee whose interest in the estate would 5966
be affected by the proposed purchase. 5967

(2) The written consents are filed with the court. 5968

(3) The purchase is shown to be to the advantage of the 5969
estate. 5970

(C) The court shall deliver notice of the hearing on the 5971
petition to the heirs, devisees, or legatees of the estate or 5972
any interested person. 5973

Sec. 3314.50. No community school shall initiate 5974
operation, ~~on or after the effective date of this amendment,~~ 5975
unless the governing authority of the school has posted a bond 5976
in the amount of fifty thousand dollars with the auditor of 5977
state. The bond shall be used, in the event the school closes, 5978
to pay the auditor of state any moneys owed or that become owed 5979
by the school for the costs of audits conducted by the auditor 5980
of state or a public accountant under Chapter 117. of the 5981
Revised Code. 5982

The department of education shall notify the auditor of 5983
state of the proposed initiation of operations of any community 5984
school and shall provide the auditor of state with the 5985
certification of the sponsor of the community school of the 5986
compliance by the community school with all legal preconditions 5987
to the initiation of its operations, including compliance with 5988
this section. 5989

In lieu of the bond, ~~the governing authority of the~~ 5990
~~school, the school's sponsor,~~ or an operator that has a contract 5991
with the school may ~~deposit with the auditor of state cash in~~ 5992
~~the amount of fifty thousand dollars as guarantee of payment~~ 5993
~~under the provisions of this section. In lieu of a bond or a~~ 5994
~~cash deposit, the school's sponsor or an operator that has a~~ 5995
~~contract with the school may~~ provide a written guarantee of 5996

payment, which shall obligate the school's sponsor or the 5997
operator that provides the written guarantee to pay the cost of 5998
audits of the school under this section up to the amount of 5999
fifty thousand dollars. Any such written guarantee shall be 6000
binding upon any successor entity that enters into a contract to 6001
sponsor or to operate the school, and any such entity, as a 6002
condition of its undertaking shall acknowledge and accept such 6003
obligation. 6004

In the event that a sponsor or operator has provided a 6005
written guarantee under this section, and, subsequent to the 6006
provision of the guarantee, the governing authority of the 6007
school posts a bond under this section, ~~or the governing~~ 6008
~~authority of the school, a sponsor, or an operator provides a~~ 6009
~~cash deposit of fifty thousand dollars as required,~~ the written 6010
guarantee shall cease to be of further effect. 6011

~~As soon as it is practicable to do so after the filing of~~ 6012
~~a bond or the deposit of cash, the auditor of state shall~~ 6013
~~deliver the bond or cash to the treasurer of state, who shall~~ 6014
~~hold it in trust for the purposes prescribed in this section.~~ 6015
~~The treasurer of state shall be responsible for the safekeeping~~ 6016
~~of all bonds filed or cash deposited under this section.~~ The 6017
auditor of state shall notify the department of education when 6018
the school's governing authority has filed the bond, ~~deposited~~ 6019
~~the cash guarantee,~~ or submitted a written guarantee of payment. 6020

When the auditor of state conducts an audit of a community 6021
school that has closed and is subject to the requirements of 6022
this section, the auditor of state shall certify the amount of 6023
forfeiture to the ~~treasurer of state~~ attorney general, who shall 6024
assess the bond for the costs of the audit ~~or shall pay money~~ 6025
~~from the named insurer or from the school's cash deposit for the~~ 6026

~~costs of the audit~~ to reimburse the auditor of state or public 6027
accountant for costs incurred in conducting audits of the 6028
school. 6029

To the extent that the amount of the bond ~~or the cash~~ 6030
~~deposit~~ is not needed to cover audit costs, the bond shall be of 6031
no further effect, ~~and any cash balance shall be refunded by the~~ 6032
~~treasurer of state to the entity which provided the bond.~~ When 6033
the auditor of state conducts an audit of a community school 6034
that has closed and is subject to the requirements of this 6035
section, and, as to which, a written guarantee has been given 6036
under this section, the entity that provided the guarantee shall 6037
be solely and fully liable for any such audit costs, and shall 6038
promptly pay the costs of the audit up to fifty thousand 6039
dollars. 6040

No community school that is subject to the provisions of 6041
this section shall maintain or continue its operations absent 6042
the ongoing provision of a bond, ~~a cash deposit,~~ or a written 6043
guarantee as required by this section. 6044

Sec. 3366.05. The issuing authority, as an eligible not- 6045
for-profit holder of federal education loans, may act as an 6046
eligible not-for-profit servicer of certain student loans owned 6047
by the federal government under Section 2212 of the "Health Care 6048
and Education Reconciliation Act of 2010," Pub. L. No. 111-152. 6049
The issuing authority is authorized to take such actions and to 6050
enter into such contracts and to execute all instruments 6051
necessary or appropriate to act as an eligible not-for-profit 6052
servicer. Notwithstanding division (C) of section 3366.03 and 6053
division (B) of section 3366.04 of the Revised Code, revenues 6054
received by the issuing authority under this section shall be 6055
deposited in an account in the custody of the treasurer of state 6056

that is not part of the state treasury and shall be used to pay 6057
administrative costs incurred by the issuing authority. 6058
Unexpended amounts shall be deposited in the state treasury and 6059
credited, as determined by the treasurer of state, to the 6060
treasurer of state's administrative fund created under section 6061
113.20 of the Revised Code or the treasurer's information 6062
technology reserve fund created under section 113.22 of the 6063
Revised Code. 6064

Sec. 3737.945. Moneys in the funds of the petroleum 6065
underground storage tank release compensation board, except as 6066
otherwise provided in any resolution authorizing the issuance of 6067
its revenue bonds or in any trust agreement securing the same, 6068
in excess of current needs, may be invested by the board in 6069
notes, bonds, or other obligations of the United States, or of 6070
any agency or instrumentality thereof, or in obligations of this 6071
state or any political subdivision thereof, or the treasurer of 6072
state's investment pool authorized under section 135.45 of the 6073
Revised Code. Income from all such investments of moneys in any 6074
fund shall be credited to such funds as the board determines, 6075
subject to the provisions of any resolution or trust agreement, 6076
and the investments may be sold as the board determines. 6077

Sec. 3903.73. All securities deposited with the 6078
superintendent of insurance shall be ~~deposited by him with the~~ 6079
~~treasurer of state, and the treasurer of state shall not deliver~~ 6080
~~such securities or coupons attached thereto, except upon the~~ 6081
~~written order of~~ held by the superintendent for the purpose 6082
intended. No security shall be accepted for deposit by the 6083
superintendent unless it is of par value and market value of one 6084
thousand dollars or more. 6085

Sec. 3905.32. For each initial license issued under 6086

section 3905.30 of the Revised Code and renewal of that license, 6087
the superintendent of insurance shall collect one hundred 6088
dollars. ~~The renewal fee shall be paid to the treasurer of~~ 6089
~~state.~~ 6090

Sec. 3916.01. As used in this chapter: 6091

(A) "Advertising" means any written, electronic, or 6092
printed communication or any communication by means of recorded 6093
telephone messages or transmitted on radio, television, the 6094
internet, or similar communications media, including, but not 6095
limited to, film strips, motion pictures, and videos, that is 6096
published, disseminated, circulated, or placed directly or 6097
indirectly before the public in this state for the purpose of 6098
creating an interest in or inducing a person to purchase or 6099
sell, assign, devise, bequest, or transfer the death benefit or 6100
ownership of a policy pursuant to a viatical settlement 6101
contract. 6102

(B) "Business of viatical settlements" means an activity 6103
involved, but not limited to, in the offering, solicitation, 6104
negotiation, procurement, effectuation, purchasing, investing, 6105
financing, monitoring, tracking, underwriting, selling, 6106
transferring, assigning, pledging, or hypothecating or in any 6107
other manner acquiring an interest in a policy by means of 6108
viatical settlement contracts. 6109

(C) "Chronically ill" means having been certified within 6110
the preceding twelve-month period by a licensed health 6111
professional as: 6112

(1) Being unable to perform, without substantial 6113
assistance from another individual, at least two activities of 6114
daily living, including, but not limited to, eating, toileting, 6115

transferring, bathing, dressing, or continence for at least 6116
ninety days due to a loss of functional capacity; or 6117

(2) Requiring substantial supervision to protect the 6118
individual from threats to health and safety due to severe 6119
cognitive impairment; or 6120

(3) Having a level of disability similar to that described 6121
in division (C) (1) of this section, as determined under 6122
regulations prescribed by the United States secretary of the 6123
treasury in consultation with the United States secretary of 6124
health and human services. 6125

(D) "Escrow agent" means an independent third-party person 6126
who, pursuant to a written agreement signed by the viatical 6127
settlement provider and viator, provides escrow services related 6128
to the acquisition of a policy pursuant to a viatical settlement 6129
contract. "Escrow agent" does not include any person associated 6130
with, affiliated with, or under the control of a person licensed 6131
under this chapter or described in division (C) of section 6132
3916.02 of the Revised Code. 6133

(E) (1) "Financing entity" means an underwriter, placement 6134
agent, lender, purchaser of securities, purchaser of a policy 6135
from a viatical settlement provider, credit enhancer, or any 6136
other person that has a direct ownership interest in a policy 6137
that is the subject of a viatical settlement contract and to 6138
which both of the following apply: 6139

(a) Its principal activity related to the transaction is 6140
providing funds to effect the business of viatical settlements 6141
or the purchase of one or more viaticated policies. 6142

(b) It has an agreement in writing with one or more 6143
licensed viatical settlement providers to finance the 6144

acquisition of viatical settlement contracts. 6145

(2) "Financing entity" does not include a non-accredited 6146
investor or viatical settlement purchaser. 6147

(F) "Recklessly" has the same meaning as in section 6148
2901.22 of the Revised Code. 6149

(G) "Defraud" has the same meaning as in section 2913.01 6150
of the Revised Code. 6151

(H) "Life expectancy" means an opinion or evaluation as to 6152
how long a particular person is going to live. 6153

(I) Notwithstanding section 1.59 of the Revised Code, 6154
"person" means a natural person or a legal entity, including, 6155
but not limited to, an individual, partnership, limited 6156
liability company, limited liability partnership, association, 6157
trust, business trust, or corporation. 6158

(J) "Policy" means an individual or group policy, group 6159
certificate, or other contract or arrangement of life insurance 6160
affecting the rights of a resident of this state or bearing a 6161
reasonable relation to this state, regardless of whether 6162
delivered or issued for delivery in this state. 6163

(K) "Related provider trust" means a titling trust or any 6164
other trust established by a licensed viatical settlement 6165
provider or a financing entity for the sole purpose of holding 6166
ownership or beneficial interest in purchased policies in 6167
connection with a financing transaction, provided that the trust 6168
has a written agreement with the licensed viatical settlement 6169
provider under which the licensed viatical settlement provider 6170
is responsible for ensuring compliance with all statutory and 6171
regulatory requirements and under which the trust agrees to make 6172
all records and files related to viatical settlement 6173

transactions available to the superintendent of insurance as if 6174
those records and files were maintained directly by the licensed 6175
viatical settlement provider. 6176

(L) "Special purpose entity" means a corporation, 6177
partnership, trust, limited liability company or other similar 6178
entity formed solely for one of the following purposes: 6179

(i) To provide access, either directly or indirectly, to 6180
institutional capital markets for a financing entity or licensed 6181
viatical settlement provider; 6182

(ii) In connection with a transaction in which the 6183
securities in the special purpose entity are acquired by 6184
qualified institutional buyers. 6185

(M) "Terminally ill" means certified by a physician as 6186
having an illness or physical condition that can reasonably be 6187
expected to result in death in twenty-four months or less. 6188

(N) "Viatical settlement broker" means a person that, on 6189
behalf of a viator and for a fee, commission, or other valuable 6190
consideration, offers or attempts to negotiate viatical 6191
settlements between a viator and one or more viatical settlement 6192
providers or viatical settlement brokers. "Viatical settlement 6193
broker" does not include an attorney, a certified public 6194
accountant, or a financial planner accredited by a nationally 6195
recognized accreditation agency, who is retained to represent 6196
the viator, whose compensation is not paid directly or 6197
indirectly by the viatical settlement provider or purchaser. 6198

(O) (1) "Viatical settlement contract" means any of the 6199
following: 6200

(a) A written agreement between a viator and a viatical 6201
settlement provider that establishes the terms under which 6202

compensation or anything of value, that is less than the 6203
expected death benefit of the policy is or will be paid in 6204
return for the viator's present or future assignment, transfer, 6205
sale, release, devise, or bequest of the death benefit or 6206
ownership of any portion of the policy or any beneficial 6207
interest in the policy or its ownership; 6208

(b) The transfer or acquisition for compensation or 6209
anything of value for ownership or beneficial interest in a 6210
trust or an interest in another person that owns such a policy 6211
if the trust or other person was formed or availed of for the 6212
principal purpose of acquiring one or more life insurance 6213
policies; 6214

(c) A premium finance loan made for a policy by a lender 6215
to a viator on, before, or after the date of issuance of the 6216
policy in either of the following situations: 6217

(i) The viator or the insured receives a guarantee of the 6218
viatical settlement value of the policy. 6219

(ii) The viator or the insured agrees on, before, or after 6220
the issuance of the policy to sell the policy or any portion of 6221
the policy's death benefit. 6222

(2) "Viatical settlement contracts" include but are not 6223
limited to contracts that are commonly termed "life settlement 6224
contracts" and "senior settlement contracts." 6225

(3) "Viatical settlement contract" does not include any of 6226
the following unless part of a plan, scheme, device, or artifice 6227
to avoid the application of this chapter: 6228

(a) A policy loan or accelerated death benefit made by the 6229
insurer pursuant to the policy's terms whether issued with the 6230
original policy or a rider; 6231

(b) Loan proceeds that are used solely to pay premiums for 6232
the policy and the costs of the loan including interest, 6233
arrangement fees, utilization fees and similar fees, closing 6234
costs, legal fees and expenses, trustee fees and expenses, and 6235
third-party collateral provider fees and expenses, including 6236
fees payable to letter of credit issuers; 6237

(c) A loan made by a regulated financial institution in 6238
which the lender takes an interest in a policy solely to secure 6239
repayment of a loan or, if there is a default on the loan and 6240
the policy is transferred, the transfer of such a policy by the 6241
lender, provided that neither the default itself nor the 6242
transfer is pursuant to an agreement or understanding with any 6243
other person for the purpose of evading regulation under this 6244
chapter; 6245

(d) A premium finance loan made by a lender that does not 6246
violate sections 1321.71 to 1321.83 of the Revised Code, if the 6247
premium finance loan is not described in division (O) (1) (c) of 6248
this section; 6249

(e) An agreement where all parties are closely related to 6250
the insured by blood or law or have a lawful substantial 6251
economic interest in the continued life, health, and bodily 6252
safety of the person insured, or are persons or trusts 6253
established primarily for the benefit of such parties; 6254

(f) Any designation, consent, or agreement by an insured 6255
who is an employee of an employer in connection with the 6256
purchase by the employer, or trust established by the employer, 6257
of life insurance on the life of the employee as described in 6258
section 3911.091 of the Revised Code; 6259

(g) Any business succession planning arrangement 6260

including, but not limited to all of the following if the 6261
arrangements are bona fide arrangements: 6262

(i) An arrangement between one or more shareholders in a 6263
corporation or between a corporation and one or more of its 6264
shareholders or one or more persons or trusts established by its 6265
shareholders; 6266

(ii) An arrangement between one or more partners in a 6267
partnership or between a partnership and one or more of its 6268
partners or one or more trusts established by its partners; 6269

(iii) An arrangement between one or more members in a 6270
limited liability company or between a limited liability company 6271
and one or more of its members or one or more trusts established 6272
by its members. 6273

(h) An agreement entered into by a service recipient, a 6274
trust established by the service recipient and a service 6275
provider, or a trust established by the service provider who 6276
performs significant services for the service recipient's trade 6277
or business; 6278

(i) An arrangement or agreement with a special purpose 6279
entity; 6280

(j) Any other contract, transaction, or arrangement 6281
exempted from the definition of viatical settlement contract by 6282
rule adopted by the superintendent based on the superintendent's 6283
determination that the contract, transaction, or arrangement is 6284
not of the type regulated by this chapter. 6285

(P) (1) "Viatical settlement provider" means a person, 6286
other than a viator, that enters into or effectuates a viatical 6287
settlement contract. 6288

(2) "Viatical settlement provider" does not include any of the following:	6289 6290
(a) A bank, savings bank, savings and loan association, credit union, or other regulated financial institution that takes an assignment of a policy solely as a collateral for a loan;	6291 6292 6293 6294
(b) A premium finance company exempted under section 1321.72 of the Revised Code from the licensure requirements of section 3921.73 of the Revised Code that takes an assignment of a policy solely as collateral for a premium finance loan;	6295 6296 6297 6298
(c) The issuer of a policy;	6299
(d) An individual who enters into or effectuates not more than one viatical settlement contract in any calendar year for the transfer of life insurance policies for any value less than the expected death benefit;	6300 6301 6302 6303
(e) An authorized or eligible insurer that provides stop loss coverage or financial guarantee insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;	6304 6305 6306 6307
(f) A financing entity;	6308
(g) A special purpose entity;	6309
(h) A related provider trust;	6310
(i) A viatical settlement purchaser;	6311
(j) Any other person the superintendent determines is not consistent with the definition of viatical settlement provider.	6312 6313
(Q) "Viaticated policy" means a policy that has been acquired by a viatical settlement provider pursuant to a	6314 6315

viatical settlement contract. 6316

(R) "Viator" means the owner of a policy or a certificate 6317
holder under a group policy that has not previously been 6318
viaticated who, in return for compensation or anything of value 6319
that is less than the expected death benefit of the policy or 6320
certificate, assigns, transfers, sells, releases, devises, or 6321
bequests the death benefit or ownership of any portion of the 6322
policy or certificate of insurance. For the purposes of this 6323
chapter, a "viator" is not limited to an owner of a policy or a 6324
certificate holder under a group policy insuring the life of an 6325
individual who is terminally or chronically ill except where 6326
specifically addressed. "Viator" does not include any of the 6327
following: 6328

- (1) A licensee under this chapter; 6329
- (2) A qualified institutional buyer; 6330
- (3) A financing entity; 6331
- (4) A special purpose entity; 6332
- (5) A related provider trust. 6333

(S) "Viatical settlement purchaser" means a person who 6334
provides a sum of money as consideration for a policy or an 6335
interest in the death benefits of a policy from a viatical 6336
settlement provider that is the subject of a viatical settlement 6337
contract, or a person who owns, acquires, or is entitled to a 6338
beneficial interest in a trust or person that owns a viatical 6339
settlement contract or is the beneficiary of a policy that is 6340
the subject of a viatical settlement contract, for the purpose 6341
of deriving an economic benefit. "Viatical settlement purchaser" 6342
does not include any of the following: 6343

(1) A licensee under this chapter;	6344
(2) A qualified institutional buyer;	6345
(3) A financing entity;	6346
(4) A special purpose entity;	6347
(5) A related provider trust.	6348
(T) "Qualified institutional buyer" has the same meaning as in 17 C.F.R. 230.144A as that regulation exists on the effective date of this amendment <u>September 11, 2008</u> .	6349 6350 6351
(U) "Licensee" means a person licensed as a viatical settlement provider or viatical settlement broker under this chapter.	6352 6353 6354
(V) "NAIC" means the national association of insurance commissioners.	6355 6356
(X) "Regulated financial institution" means a bank, a savings association, or credit union operating under authority granted by the superintendent of financial institutions, the regulatory authority of any other state of the United States, the office of thrift supervision, the national credit union administration, or the office of the comptroller of the currency.	6357 6358 6359 6360 6361 6362 6363
(W) (1) "Stranger-originated life insurance," or "STOLI," means a practice, arrangement, or agreement initiated at or prior to the issuance of a policy that includes both of the following:	6364 6365 6366 6367
(a) The purchase or acquisition of a policy primarily benefiting one or more persons who, at the time of issuance of the policy, lack insurable interest in the person insured under	6368 6369 6370

the policy; 6371

(b) The transfer at any time of the legal or beneficial 6372
ownership of the policy or benefits of the policy or both, in 6373
whole or in part, including through an assumption or forgiveness 6374
of a loan to fund premiums. 6375

(2) "Stranger-originated life insurance" also includes 6376
trusts or other persons that are created to give the appearance 6377
of insurable interest and are used to initiate one or more 6378
policies for investors but violate insurable interest laws and 6379
the prohibition against wagering on life. 6380

(3) "Stranger-originated life insurance" does not include 6381
viatical settlement transactions specifically described in 6382
division (0) (3) of this section. 6383

Sec. 3925.26. When a company organized under section 6384
3925.25 of the Revised Code desires to do business in another 6385
state, by the laws of which, to qualify it therefor, it must 6386
make a deposit of securities assigned in trust for the benefit 6387
of its policyholders with an officer of this state, the 6388
~~treasurer of state~~ superintendent of insurance shall receive 6389
such deposit and issue therefor to the company ~~his~~ a receipt, 6390
giving a pertinent description of the securities and a 6391
certificate of their market value. ~~The treasurer of state shall~~ 6392
~~issue a like certificate to the superintendent of insurance, who~~ 6393
~~shall place it on file in his office.~~ Such company may exchange 6394
these securities for other like securities, in whole or in part, 6395
as far as its business requires, and it may wholly withdraw them 6396
if it discontinues business in such other state. ~~Such changes or~~ 6397
~~withdrawals of securities shall at once be certified by the~~ 6398
~~treasurer of state to the superintendent.~~ 6399

Sec. 4141.241. (A) (1) Any nonprofit organization described 6400
in division (X) of section 4141.01 of the Revised Code, which 6401
becomes subject to this chapter on or after January 1, 1972, 6402
shall pay contributions under section 4141.25 of the Revised 6403
Code, unless it elects, in accordance with this division, to pay 6404
to the director of job and family services for deposit in the 6405
unemployment compensation fund an amount in lieu of 6406
contributions equal to the amount of regular benefits plus one 6407
half of extended benefits paid from that fund that is 6408
attributable to service in the employ of the nonprofit 6409
organization to individuals whose service, during the base 6410
period of the claims, was within the effective period of such 6411
election. 6412

(2) Any nonprofit organization which becomes subject to 6413
this chapter after January 1, 1972, may elect to become liable 6414
for payments in lieu of contributions for a period of not less 6415
than the remainder of that calendar year and the next calendar 6416
year, beginning with the date on which such subjectivity begins, 6417
by filing a written notice of its election with the director not 6418
later than thirty days immediately following the date of the 6419
determination of such subjectivity. 6420

(3) Any nonprofit organization which makes an election in 6421
accordance with this division will continue to be liable for 6422
payments in lieu of contributions for the period described in 6423
this division and until it files with the director a written 6424
notice terminating its election. The notice shall be filed not 6425
later than thirty days prior to the beginning of the calendar 6426
year for which the termination is to become effective. 6427

(4) Any nonprofit organization which has been paying 6428
contributions for a period subsequent to January 1, 1972, may 6429

change to a reimbursable basis by filing with the director, not 6430
later than thirty days prior to the beginning of any calendar 6431
year, a written notice of election to become liable for payments 6432
in lieu of contributions. The election shall not be terminable 6433
by the organization during that calendar year and the next 6434
calendar year. 6435

(5) The director, in accordance with any rules the 6436
director prescribes, shall notify each nonprofit organization of 6437
any determination which the director may make of its status as 6438
an employer and of the effective date of any election which it 6439
makes and of any termination of the election. Any determinations 6440
shall be subject to reconsideration, appeal, and review in 6441
accordance with section 4141.26 of the Revised Code. 6442

(B) Except as provided in division (I) of section 4141.29 6443
of the Revised Code, benefits based on service with a nonprofit 6444
organization granted a reimbursing status under this section 6445
shall be payable in the same amount, on the same terms, and 6446
subject to the same conditions, as benefits payable on the basis 6447
of other service subject to this chapter. Payments in lieu of 6448
contributions shall be made in accordance with this division and 6449
division (D) of section 4141.24 of the Revised Code. 6450

(1) (a) At the end of each calendar quarter, or at the end 6451
of any other period as determined by the director under division 6452
(D) (4) of section 4141.24 of the Revised Code, the director 6453
shall bill each nonprofit organization or group of such 6454
organizations which has elected to make payments in lieu of 6455
contributions for an amount equal to the full amount of regular 6456
benefits plus one half of the amount of extended benefits paid 6457
during such quarter or other prescribed period which is 6458
attributable to service in the employ of such organization. 6459

(b) In the computation of the amount of benefits to be charged to employers liable for payments in lieu of contributions, all benefits attributable to service described in division (B) (1) (a) of this section shall be computed and charged to such organization as described in division (D) of section 4141.24 of the Revised Code, and, except as provided in division (D) (2) of section 4141.24 of the Revised Code, no portion of the amount may be charged to the mutualized account established by division (B) of section 4141.25 of the Revised Code.

(c) The director may prescribe regulations under which organizations, which have elected to make payments in lieu of contributions, may request permission to make such payments in equal installments throughout the year with an adjustment at the end of the year for any excess or shortage of the amount of such installment payments compared with the total amount of benefits actually charged the organization's account during the year. In making any adjustment, where the total installment payments are less than the actual benefits charged, the organization shall be liable for payment of the unpaid balance in accordance with division (B) (2) of this section. If the total installment payments exceed the actual benefits charged, all or part of the excess may, at the discretion of the director, be refunded or retained in the fund as part of the payments which may be required in the next year.

(2) Payment of any bill rendered under division (B) (1) of this section shall be made not later than thirty days after the bill was mailed to the last known address of the organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with division (B) (4) of this section.

(3) Payments made by an organization under this section 6490
shall not be deducted or deductible, in whole or in part, from 6491
the remuneration of individuals in the employ of the 6492
organization. 6493

(4) An organization may file an application for review and 6494
redetermination of the amounts appearing on any bill rendered to 6495
such organization under division (B)(1) of this section. The 6496
application shall be filed and determined under division (D)(4) 6497
of section 4141.24 of the Revised Code. 6498

(5) Past-due payments of amounts in lieu of contributions 6499
shall be subject to the same interest rates and collection 6500
procedures that apply to past-due contributions under sections 6501
4141.23 and ~~414.27~~ 4141.27 of the Revised Code. In case of 6502
failure to file a required quarterly report within the time 6503
prescribed by the director, the nonprofit organization shall be 6504
subject to a forfeiture pursuant to section 4141.20 of the 6505
Revised Code for each quarterly report that is not timely filed. 6506

All interest and forfeitures collected under this division 6507
shall be paid into the unemployment compensation special 6508
administrative fund as provided in section 4141.11 of the 6509
Revised Code. 6510

(6) All payments in lieu of contributions collected under 6511
this section shall be paid into the unemployment compensation 6512
fund as provided in section 4141.09 of the Revised Code. Any 6513
refunds of such payments shall be paid from the unemployment 6514
compensation fund, as provided in section 4141.09 of the Revised 6515
Code. 6516

(C)(1) Any nonprofit organization, or group of such 6517
organizations approved under division (D) of this section, that 6518

elects to become liable for payments in lieu of contributions 6519
shall be required within thirty days after the effective date of 6520
its election, to execute and file with the director a surety 6521
bond approved by the director ~~or it may elect instead to deposit~~ 6522
~~with the director approved municipal or other bonds, or approved~~ 6523
~~securities, or a combination thereof, or other forms of~~ 6524
~~collateral security approved by the director.~~ 6525

(2) (a) The amount of the bond ~~or deposit~~ required shall be 6526
equal to three per cent of the organization's wages paid for 6527
employment as defined in section 4141.01 of the Revised Code 6528
that would have been taxable had the organization been a subject 6529
employer during the four calendar quarters immediately preceding 6530
the effective date of the election, or the amount established by 6531
the director within the limitation provided in division ~~(C) (2)~~ 6532
~~(d) (C) (2) (c)~~ of this section, whichever is the less. The 6533
effective date of the amount of the bond ~~or other collateral~~ 6534
~~security~~ required after the employer initially is determined by 6535
the director to be liable for payments in lieu of contributions 6536
shall be the renewal date ~~in the case of a the bond or the~~ 6537
~~biennial anniversary of the effective date of election in the~~ 6538
~~case of deposit of securities or other forms of collateral~~ 6539
~~security approved by the director, whichever date shall be most~~ 6540
~~recent and applicable.~~ If the nonprofit organization did not pay 6541
wages in each of such four calendar quarters, the amount of the 6542
bond or deposit shall be as determined by the director under 6543
regulations prescribed for this purpose. 6544

(b) Any bond ~~or other form of collateral security approved~~ 6545
~~by the director~~ deposited under this division shall be in force 6546
for a period of not less than two calendar years and shall be 6547
renewed with the approval of the director, at such times as the 6548
director may prescribe, but not less frequently than at two-year 6549

intervals as long as the organization continues to be liable for 6550
payments in lieu of contributions. The director shall require 6551
adjustments to be made in a previously filed bond ~~or other form~~ 6552
~~of collateral security~~ as the director considers appropriate. If 6553
the bond ~~or other form of collateral security~~ is to be 6554
increased, the adjusted bond ~~or collateral security~~ shall be 6555
filed by the organization within thirty days of the date that 6556
notice of the required adjustment was mailed or otherwise 6557
delivered to it. Failure by any organization covered by such 6558
bond ~~or collateral security~~ to pay the full amount of payments 6559
in lieu of contributions when due, together with any applicable 6560
interest provided for in division (B) (5) of this section, shall 6561
render the surety liable on the bond ~~or collateral security~~ to 6562
the extent of the bond ~~or collateral security~~, as though the 6563
surety was the organization. 6564

~~(c) Any securities accepted in lieu of surety bond by the~~ 6565
~~director shall be deposited with the treasurer of state who~~ 6566
~~shall have custody thereof and retain the same in the treasurer~~ 6567
~~of state's possession, or release them, according to conditions~~ 6568
~~prescribed by regulations of the director. Income from the~~ 6569
~~securities, held in custody by the treasurer of state, shall~~ 6570
~~accrue to the benefit of the depositor and shall be distributed~~ 6571
~~to the depositor in the absence of any notification from the~~ 6572
~~director that the depositor is in default on any payment owed to~~ 6573
~~the director. The director may require the sale of any such~~ 6574
~~bonds to the extent necessary to satisfy any unpaid payments in~~ 6575
~~lieu of contributions, together with any applicable interest or~~ 6576
~~forfeitures provided for in division (B) (5) of this section. The~~ 6577
~~director shall require the employer within thirty days following~~ 6578
~~any sale of deposited securities, under this subdivision, to~~ 6579
~~deposit additional securities, surety bond, or combination of~~ 6580

~~both, to make whole the employer's security deposit at the 6581
approved level. Any cash remaining from the sale of such 6582
securities may, at the discretion of the director, be refunded 6583
in whole or in part, or be paid into the unemployment 6584
compensation fund to cover future payments required of the 6585
organization. 6586~~

~~(d) The required bond or deposit for any nonprofit 6587
organization, or group of such organizations approved by the 6588
director under division (D) of this section, that is determined 6589
by the director to be liable for payments in lieu of 6590
contributions effective beginning on and after January 1, 1996, 6591
but prior to January 1, 1998, and the required bond or deposit 6592
for any renewed elections under division (C) (2) (b) of this 6593
section effective during that period shall not exceed one 6594
million two hundred fifty thousand dollars. The required bond or 6595
deposit for any nonprofit organization, or group of such 6596
organizations approved by the director under division (D) of 6597
this section, that is determined to be liable for payments in 6598
lieu of contributions effective on and after January 1, 1998, 6599
and the required bond or deposit for any renewed elections 6600
effective on and after January 1, 1998, shall not exceed two 6601
million dollars. 6602~~

~~(3) If any nonprofit organization fails to file a bond or 6603
make a deposit, or to file a bond in an increased amount or to 6604
make whole the amount of a previously made deposit, as provided 6605
under this division, the director may terminate the 6606
organization's election to make payments in lieu of 6607
contributions effective for the quarter following such failure 6608
and the termination shall continue for not less than the 6609
remainder of that calendar year and the next calendar year, 6610
beginning with the quarter in which the termination becomes 6611~~

effective; except that the director may extend for good cause 6612
the applicable filing, ~~deposit, or adjustment~~ period by not more 6613
than thirty days. 6614

(D) (1) Two or more nonprofit organizations that have 6615
become liable for payments in lieu of contributions, in 6616
accordance with division (A) of this section, may file a joint 6617
application to the director for the establishment of the group 6618
account for the purpose of sharing the cost of benefits paid 6619
that are attributable to service in the employ of those 6620
employers. Notwithstanding division (E) of section 4141.242 of 6621
the Revised Code, hospitals operated by this state or a 6622
political subdivision may participate in a group account with 6623
nonprofit organizations under the procedures set forth in this 6624
section. Each application shall identify and authorize a group 6625
representative to act as the group's agent for the purposes of 6626
this division. 6627

(2) Upon the director's approval of the application, the 6628
director shall establish a group account for the employers 6629
effective as of the beginning of the calendar quarter in which 6630
the director receives the application and shall notify the 6631
group's representative of the effective date of the account. The 6632
account shall remain in effect for not less than two years and 6633
thereafter until terminated by the director or upon application 6634
by the group. 6635

(3) Upon establishment of the account, each member of the 6636
group shall be liable, in the event that the group 6637
representative fails to pay any bill issued to it pursuant to 6638
division (B) of this section, for payments in lieu of 6639
contributions with respect to each calendar quarter in the 6640
amount that bears the same ratio to the total benefits paid in 6641

the quarter that are attributable to service performed in the 6642
employ of all members of the group as the total wages paid for 6643
service in employment by the member in the quarter bear to the 6644
total wages paid during the quarter for service performed in the 6645
employ of all members of the group. 6646

(4) The director shall adopt regulations as considered 6647
necessary with respect to the following: applications for 6648
establishment, bonding, maintenance, and termination of group 6649
accounts that are authorized by this section; addition of new 6650
members to and withdrawal of active members from such accounts; 6651
and the determination of the amounts that are payable under this 6652
division by the group representative and in the event of default 6653
in payment by the group representative, members of the group, 6654
and the time and manner of payments. 6655

Sec. 4505.06. (A) (1) Application for a certificate of 6656
title shall be made in a form prescribed by the registrar of 6657
motor vehicles and shall be sworn to before a notary public or 6658
other officer empowered to administer oaths. The application 6659
shall be filed with the clerk of any court of common pleas. An 6660
application for a certificate of title may be filed 6661
electronically by any electronic means approved by the registrar 6662
in any county with the clerk of the court of common pleas of 6663
that county. Any payments required by this chapter shall be 6664
considered as accompanying any electronically transmitted 6665
application when payment actually is received by the clerk. 6666
Payment of any fee or taxes may be made by electronic transfer 6667
of funds. 6668

(2) The application for a certificate of title shall be 6669
accompanied by the fee prescribed in section 4505.09 of the 6670
Revised Code. The fee shall be retained by the clerk who issues 6671

the certificate of title and shall be distributed in accordance 6672
with that section. If a clerk of a court of common pleas, other 6673
than the clerk of the court of common pleas of an applicant's 6674
county of residence, issues a certificate of title to the 6675
applicant, the clerk shall transmit data related to the 6676
transaction to the automated title processing system. 6677

(3) If a certificate of title previously has been issued 6678
for a motor vehicle in this state, the application for a 6679
certificate of title also shall be accompanied by that 6680
certificate of title duly assigned, unless otherwise provided in 6681
this chapter. If a certificate of title previously has not been 6682
issued for the motor vehicle in this state, the application, 6683
unless otherwise provided in this chapter, shall be accompanied 6684
by a manufacturer's or importer's certificate or by a 6685
certificate of title of another state from which the motor 6686
vehicle was brought into this state. If the application refers 6687
to a motor vehicle last previously registered in another state, 6688
the application also shall be accompanied by the physical 6689
inspection certificate required by section 4505.061 of the 6690
Revised Code. If the application is made by two persons 6691
regarding a motor vehicle in which they wish to establish joint 6692
ownership with right of survivorship, they may do so as provided 6693
in section 2131.12 of the Revised Code. If the applicant 6694
requests a designation of the motor vehicle in beneficiary form 6695
so that upon the death of the owner of the motor vehicle, 6696
ownership of the motor vehicle will pass to a designated 6697
transfer-on-death beneficiary or beneficiaries, the applicant 6698
may do so as provided in section 2131.13 of the Revised Code. A 6699
person who establishes ownership of a motor vehicle that is 6700
transferable on death in accordance with section 2131.13 of the 6701
Revised Code may terminate that type of ownership or change the 6702

designation of the transfer-on-death beneficiary or 6703
beneficiaries by applying for a certificate of title pursuant to 6704
this section. The clerk shall retain the evidence of title 6705
presented by the applicant and on which the certificate of title 6706
is issued, except that, if an application for a certificate of 6707
title is filed electronically by an electronic motor vehicle 6708
dealer on behalf of the purchaser of a motor vehicle, the clerk 6709
shall retain the completed electronic record to which the dealer 6710
converted the certificate of title application and other 6711
required documents. The registrar, after consultation with the 6712
attorney general, shall adopt rules that govern the location at 6713
which, and the manner in which, are stored the actual 6714
application and all other documents relating to the transfer of 6715
a motor vehicle when an electronic motor vehicle dealer files 6716
the application for a certificate of title electronically on 6717
behalf of the purchaser. Not later than December 31, 2017, the 6718
registrar shall arrange for a service that enables all 6719
electronic motor vehicle dealers to file applications for 6720
certificates of title on behalf of purchasers of motor vehicles 6721
electronically by transferring the applications directly from 6722
the computer systems of the dealers to the clerk. 6723

The clerk shall use reasonable diligence in ascertaining 6724
whether or not the facts in the application for a certificate of 6725
title are true by checking the application and documents 6726
accompanying it or the electronic record to which a dealer 6727
converted the application and accompanying documents with the 6728
records of motor vehicles in the clerk's office. If the clerk is 6729
satisfied that the applicant is the owner of the motor vehicle 6730
and that the application is in the proper form, the clerk, 6731
within five business days after the application is filed and 6732
except as provided in section 4505.021 of the Revised Code, 6733

shall issue a physical certificate of title over the clerk's 6734
signature and sealed with the clerk's seal, unless the applicant 6735
specifically requests the clerk not to issue a physical 6736
certificate of title and instead to issue an electronic 6737
certificate of title. For purposes of the transfer of a 6738
certificate of title, if the clerk is satisfied that the secured 6739
party has duly discharged a lien notation but has not canceled 6740
the lien notation with a clerk, the clerk may cancel the lien 6741
notation on the automated title processing system and notify the 6742
clerk of the county of origin. 6743

(4) In the case of the sale of a motor vehicle to a 6744
general buyer or user by a dealer, by a motor vehicle leasing 6745
dealer selling the motor vehicle to the lessee or, in a case in 6746
which the leasing dealer subleased the motor vehicle, the 6747
sublessee, at the end of the lease agreement or sublease 6748
agreement, or by a manufactured housing broker, the certificate 6749
of title shall be obtained in the name of the buyer by the 6750
dealer, leasing dealer, or manufactured housing broker, as the 6751
case may be, upon application signed by the buyer. The 6752
certificate of title shall be issued, or the process of entering 6753
the certificate of title application information into the 6754
automated title processing system if a physical certificate of 6755
title is not to be issued shall be completed, within five 6756
business days after the application for title is filed with the 6757
clerk. If the buyer of the motor vehicle previously leased the 6758
motor vehicle and is buying the motor vehicle at the end of the 6759
lease pursuant to that lease, the certificate of title shall be 6760
obtained in the name of the buyer by the motor vehicle leasing 6761
dealer who previously leased the motor vehicle to the buyer or 6762
by the motor vehicle leasing dealer who subleased the motor 6763
vehicle to the buyer under a sublease agreement. 6764

In all other cases, except as provided in section 4505.032 6765
and division (D) (2) of section 4505.11 of the Revised Code, such 6766
certificates shall be obtained by the buyer. 6767

(5) (a) (i) If the certificate of title is being obtained in 6768
the name of the buyer by a motor vehicle dealer or motor vehicle 6769
leasing dealer and there is a security interest to be noted on 6770
the certificate of title, the dealer or leasing dealer shall 6771
submit the application for the certificate of title and payment 6772
of the applicable tax to a clerk within seven business days 6773
after the later of the delivery of the motor vehicle to the 6774
buyer or the date the dealer or leasing dealer obtains the 6775
manufacturer's or importer's certificate, or certificate of 6776
title issued in the name of the dealer or leasing dealer, for 6777
the motor vehicle. Submission of the application for the 6778
certificate of title and payment of the applicable tax within 6779
the required seven business days may be indicated by postmark or 6780
receipt by a clerk within that period. 6781

(ii) Upon receipt of the certificate of title with the 6782
security interest noted on its face, the dealer or leasing 6783
dealer shall forward the certificate of title to the secured 6784
party at the location noted in the financing documents or 6785
otherwise specified by the secured party. 6786

(iii) A motor vehicle dealer or motor vehicle leasing 6787
dealer is liable to a secured party for a late fee of ten 6788
dollars per day for each certificate of title application and 6789
payment of the applicable tax that is submitted to a clerk more 6790
than seven business days but less than twenty-one days after the 6791
later of the delivery of the motor vehicle to the buyer or the 6792
date the dealer or leasing dealer obtains the manufacturer's or 6793
importer's certificate, or certificate of title issued in the 6794

name of the dealer or leasing dealer, for the motor vehicle and, 6795
from then on, twenty-five dollars per day until the application 6796
and applicable tax are submitted to a clerk. 6797

(b) In all cases of transfer of a motor vehicle except the 6798
transfer of a manufactured home or mobile home, the application 6799
for certificate of title shall be filed within thirty days after 6800
the assignment or delivery of the motor vehicle. 6801

(c) An application for a certificate of title for a new 6802
manufactured home shall be filed within thirty days after the 6803
delivery of the new manufactured home to the purchaser. The date 6804
of the delivery shall be the date on which an occupancy permit 6805
for the manufactured home is delivered to the purchaser of the 6806
home by the appropriate legal authority. 6807

(d) An application for a certificate of title for a used 6808
manufactured home or a used mobile home shall be filed as 6809
follows: 6810

(i) If a certificate of title for the used manufactured 6811
home or used mobile home was issued to the motor vehicle dealer 6812
prior to the sale of the manufactured or mobile home to the 6813
purchaser, the application for certificate of title shall be 6814
filed within thirty days after the date on which an occupancy 6815
permit for the manufactured or mobile home is delivered to the 6816
purchaser by the appropriate legal authority. 6817

(ii) If the motor vehicle dealer has been designated by a 6818
secured party to display the manufactured or mobile home for 6819
sale, or to sell the manufactured or mobile home under section 6820
4505.20 of the Revised Code, but the certificate of title has 6821
not been transferred by the secured party to the motor vehicle 6822
dealer, and the dealer has complied with the requirements of 6823

division (A) of section 4505.181 of the Revised Code, the 6824
application for certificate of title shall be filed within 6825
thirty days after the date on which the motor vehicle dealer 6826
obtains the certificate of title for the home from the secured 6827
party or the date on which an occupancy permit for the 6828
manufactured or mobile home is delivered to the purchaser by the 6829
appropriate legal authority, whichever occurs later. 6830

(6) If an application for a certificate of title is not 6831
filed within the period specified in division (A) (5) (b), (c), or 6832
(d) of this section, the clerk shall collect a fee of five 6833
dollars for the issuance of the certificate, except that no such 6834
fee shall be required from a motor vehicle salvage dealer, as 6835
defined in division (A) of section 4738.01 of the Revised Code, 6836
who immediately surrenders the certificate of title for 6837
cancellation. The fee shall be in addition to all other fees 6838
established by this chapter, and shall be retained by the clerk. 6839
The registrar shall provide, on the certificate of title form 6840
prescribed by section 4505.07 of the Revised Code, language 6841
necessary to give evidence of the date on which the assignment 6842
or delivery of the motor vehicle was made. 6843

(7) As used in division (A) of this section, "lease 6844
agreement," "lessee," and "sublease agreement" have the same 6845
meanings as in section 4505.04 of the Revised Code and "new 6846
manufactured home," "used manufactured home," and "used mobile 6847
home" have the same meanings as in section 5739.0210 of the 6848
Revised Code. 6849

(B) (1) The clerk, except as provided in this section, 6850
shall refuse to accept for filing any application for a 6851
certificate of title and shall refuse to issue a certificate of 6852
title unless the dealer or the applicant, in cases in which the 6853

certificate shall be obtained by the buyer, submits with the 6854
application payment of the tax levied by or pursuant to Chapters 6855
5739. and 5741. of the Revised Code based on the purchaser's 6856
county of residence. Upon payment of the tax in accordance with 6857
division (E) of this section, the clerk shall issue a receipt 6858
prescribed by the registrar and agreed upon by the tax 6859
commissioner showing payment of the tax or a receipt issued by 6860
the commissioner showing the payment of the tax. When submitting 6861
payment of the tax to the clerk, a dealer shall retain any 6862
discount to which the dealer is entitled under section 5739.12 6863
of the Revised Code. 6864

(2) For receiving and disbursing such taxes paid to the 6865
clerk by a resident of the clerk's county, the clerk may retain 6866
a poundage fee of one and one one-hundredth per cent, and the 6867
clerk shall pay the poundage fee into the certificate of title 6868
administration fund created by section 325.33 of the Revised 6869
Code. The clerk shall not retain a poundage fee from payments of 6870
taxes by persons who do not reside in the clerk's county. 6871

A clerk, however, may retain from the taxes paid to the 6872
clerk an amount equal to the poundage fees associated with 6873
certificates of title issued by other clerks of courts of common 6874
pleas to applicants who reside in the first clerk's county. The 6875
registrar, in consultation with the tax commissioner and the 6876
clerks of the courts of common pleas, shall develop a report 6877
from the automated title processing system that informs each 6878
clerk of the amount of the poundage fees that the clerk is 6879
permitted to retain from those taxes because of certificates of 6880
title issued by the clerks of other counties to applicants who 6881
reside in the first clerk's county. 6882

(3) In the case of casual sales of motor vehicles, as 6883

defined in section 4517.01 of the Revised Code, the price for 6884
the purpose of determining the tax shall be the purchase price 6885
on the assigned certificate of title, or assignment form 6886
prescribed by the registrar, executed by the seller and filed 6887
with the clerk by the buyer on a form to be prescribed by the 6888
registrar, which shall be prima-facie evidence of the amount for 6889
the determination of the tax. 6890

(4) Each county clerk shall forward to the ~~treasurer of~~ 6891
~~state registrar of motor vehicles~~ all sales and use tax 6892
collections resulting from sales of motor vehicles, off-highway 6893
motorcycles, and all-purpose vehicles during a calendar week on 6894
or before the Friday following the close of that week. If, on 6895
any Friday, the offices of the clerk of courts or the state are 6896
not open for business, the tax shall be forwarded to the 6897
~~treasurer of state registrar~~ on or before the next day on which 6898
the offices are open. Every remittance of tax under division (B) 6899
(4) of this section shall be accompanied by a remittance report 6900
in such form as the tax commissioner prescribes. Upon receipt of 6901
a tax remittance and remittance report, the ~~treasurer of state~~ 6902
~~registrar~~ shall date stamp the report and forward it to the tax 6903
commissioner. If the tax due for any week is not remitted by a 6904
clerk of courts as required under division (B) (4) of this 6905
section, the commissioner may require the clerk to forfeit the 6906
poundage fees for the sales made during that week. The ~~treasurer~~ 6907
~~of state registrar~~ may require the clerks of courts to transmit 6908
tax collections and remittance reports electronically. 6909

(C) (1) If the transferor indicates on the certificate of 6910
title that the odometer reflects mileage in excess of the 6911
designed mechanical limit of the odometer, the clerk shall enter 6912
the phrase "exceeds mechanical limits" following the mileage 6913
designation. If the transferor indicates on the certificate of 6914

title that the odometer reading is not the actual mileage, the 6915
clerk shall enter the phrase "nonactual: warning - odometer 6916
discrepancy" following the mileage designation. The clerk shall 6917
use reasonable care in transferring the information supplied by 6918
the transferor, but is not liable for any errors or omissions of 6919
the clerk or those of the clerk's deputies in the performance of 6920
the clerk's duties created by this chapter. 6921

The registrar shall prescribe an affidavit in which the 6922
transferor shall swear to the true selling price and, except as 6923
provided in this division, the true odometer reading of the 6924
motor vehicle. The registrar may prescribe an affidavit in which 6925
the seller and buyer provide information pertaining to the 6926
odometer reading of the motor vehicle in addition to that 6927
required by this section, as such information may be required by 6928
the United States secretary of transportation by rule prescribed 6929
under authority of subchapter IV of the "Motor Vehicle 6930
Information and Cost Savings Act," 86 Stat. 961 (1972), 15 6931
U.S.C. 1981. 6932

(2) Division (C)(1) of this section does not require the 6933
giving of information concerning the odometer and odometer 6934
reading of a motor vehicle when ownership of a motor vehicle is 6935
being transferred as a result of a bequest, under the laws of 6936
intestate succession, to a survivor pursuant to section 2106.18, 6937
2131.12, or 4505.10 of the Revised Code, to a transfer-on-death 6938
beneficiary or beneficiaries pursuant to section 2131.13 of the 6939
Revised Code, in connection with the creation of a security 6940
interest or for a vehicle with a gross vehicle weight rating of 6941
more than sixteen thousand pounds. 6942

(D) When the transfer to the applicant was made in some 6943
other state or in interstate commerce, the clerk, except as 6944

provided in this section, shall refuse to issue any certificate 6945
of title unless the tax imposed by or pursuant to Chapter 5741. 6946
of the Revised Code based on the purchaser's county of residence 6947
has been paid as evidenced by a receipt issued by the tax 6948
commissioner, or unless the applicant submits with the 6949
application payment of the tax. Upon payment of the tax in 6950
accordance with division (E) of this section, the clerk shall 6951
issue a receipt prescribed by the registrar and agreed upon by 6952
the tax commissioner, showing payment of the tax. 6953

For receiving and disbursing such taxes paid to the clerk 6954
by a resident of the clerk's county, the clerk may retain a 6955
poundage fee of one and one one-hundredth per cent. The clerk 6956
shall not retain a poundage fee from payments of taxes by 6957
persons who do not reside in the clerk's county. 6958

A clerk, however, may retain from the taxes paid to the 6959
clerk an amount equal to the poundage fees associated with 6960
certificates of title issued by other clerks of courts of common 6961
pleas to applicants who reside in the first clerk's county. The 6962
registrar, in consultation with the tax commissioner and the 6963
clerks of the courts of common pleas, shall develop a report 6964
from the automated title processing system that informs each 6965
clerk of the amount of the poundage fees that the clerk is 6966
permitted to retain from those taxes because of certificates of 6967
title issued by the clerks of other counties to applicants who 6968
reside in the first clerk's county. 6969

When the vendor is not regularly engaged in the business 6970
of selling motor vehicles, the vendor shall not be required to 6971
purchase a vendor's license or make reports concerning those 6972
sales. 6973

(E) The clerk shall accept any payment of a tax in cash, 6974

or by cashier's check, certified check, draft, money order, or 6975
teller check issued by any insured financial institution payable 6976
to the clerk and submitted with an application for a certificate 6977
of title under division (B) or (D) of this section. The clerk 6978
also may accept payment of the tax by corporate, business, or 6979
personal check, credit card, electronic transfer or wire 6980
transfer, debit card, or any other accepted form of payment made 6981
payable to the clerk. The clerk may require bonds, guarantees, 6982
or letters of credit to ensure the collection of corporate, 6983
business, or personal checks. Any service fee charged by a third 6984
party to a clerk for the use of any form of payment may be paid 6985
by the clerk from the certificate of title administration fund 6986
created in section 325.33 of the Revised Code, or may be 6987
assessed by the clerk upon the applicant as an additional fee. 6988
Upon collection, the additional fees shall be paid by the clerk 6989
into that certificate of title administration fund. 6990

The clerk shall make a good faith effort to collect any 6991
payment of taxes due but not made because the payment was 6992
returned or dishonored, but the clerk is not personally liable 6993
for the payment of uncollected taxes or uncollected fees. The 6994
clerk shall notify the tax commissioner of any such payment of 6995
taxes that is due but not made and shall furnish the information 6996
to the commissioner that the commissioner requires. The clerk 6997
shall deduct the amount of taxes due but not paid from the 6998
clerk's periodic remittance of tax payments, in accordance with 6999
procedures agreed upon by the tax commissioner. The commissioner 7000
may collect taxes due by assessment in the manner provided in 7001
section 5739.13 of the Revised Code. 7002

Any person who presents payment that is returned or 7003
dishonored for any reason is liable to the clerk for payment of 7004
a penalty over and above the amount of the taxes due. The clerk 7005

shall determine the amount of the penalty, and the penalty shall 7006
be no greater than that amount necessary to compensate the clerk 7007
for banking charges, legal fees, or other expenses incurred by 7008
the clerk in collecting the returned or dishonored payment. The 7009
remedies and procedures provided in this section are in addition 7010
to any other available civil or criminal remedies. Subsequently 7011
collected penalties, poundage fees, and title fees, less any 7012
title fee due the state, from returned or dishonored payments 7013
collected by the clerk shall be paid into the certificate of 7014
title administration fund. Subsequently collected taxes, less 7015
poundage fees, shall be sent by the clerk to the ~~treasurer of~~ 7016
~~state registrar of motor vehicles~~ at the next scheduled periodic 7017
remittance of tax payments, with information as the commissioner 7018
may require. The clerk may abate all or any part of any penalty 7019
assessed under this division. 7020

(F) In the following cases, the clerk shall accept for 7021
filing an application and shall issue a certificate of title 7022
without requiring payment or evidence of payment of the tax: 7023

(1) When the purchaser is this state or any of its 7024
political subdivisions, a church, or an organization whose 7025
purchases are exempted by section 5739.02 of the Revised Code; 7026

(2) When the transaction in this state is not a retail 7027
sale as defined by section 5739.01 of the Revised Code; 7028

(3) When the purchase is outside this state or in 7029
interstate commerce and the purpose of the purchaser is not to 7030
use, store, or consume within the meaning of section 5741.01 of 7031
the Revised Code; 7032

(4) When the purchaser is the federal government; 7033

(5) When the motor vehicle was purchased outside this 7034

state for use outside this state; 7035

(6) When the motor vehicle is purchased by a nonresident 7036
under the circumstances described in division (B)(1) of section 7037
5739.029 of the Revised Code, and upon presentation of a copy of 7038
the statement provided by that section, and a copy of the 7039
exemption certificate provided by section 5739.03 of the Revised 7040
Code. 7041

(G) An application, as prescribed by the registrar and 7042
agreed to by the tax commissioner, shall be filled out and sworn 7043
to by the buyer of a motor vehicle in a casual sale. The 7044
application shall contain the following notice in bold 7045
lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND 7046
BUYER): You are required by law to state the true selling price. 7047
A false statement is in violation of section 2921.13 of the 7048
Revised Code and is punishable by six months' imprisonment or a 7049
fine of up to one thousand dollars, or both. All transfers are 7050
audited by the department of taxation. The seller and buyer must 7051
provide any information requested by the department of taxation. 7052
The buyer may be assessed any additional tax found to be due." 7053

(H) For sales of manufactured homes or mobile homes 7054
occurring on or after January 1, 2000, the clerk shall accept 7055
for filing, pursuant to Chapter 5739. of the Revised Code, an 7056
application for a certificate of title for a manufactured home 7057
or mobile home without requiring payment of any tax pursuant to 7058
section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised 7059
Code, or a receipt issued by the tax commissioner showing 7060
payment of the tax. For sales of manufactured homes or mobile 7061
homes occurring on or after January 1, 2000, the applicant shall 7062
pay to the clerk an additional fee of five dollars for each 7063
certificate of title issued by the clerk for a manufactured or 7064

mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H) (3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4509.101. (A) (1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A) (1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A) (2) (b) and (c) of this section, a class (F) suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B) (6) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the

person, but only if the person presents proof of financial 7095
responsibility and is enrolled in a reinstatement fee payment 7096
plan pursuant to section 4510.10 of the Revised Code. 7097

(b) If, within five years of the violation, the person's 7098
operating privileges are again suspended and the person's 7099
license again is impounded for a violation of division (A) (1) of 7100
this section, a class C suspension of the person's driver's 7101
license, commercial driver's license, temporary instruction 7102
permit, probationary license, or nonresident operating privilege 7103
for the period of time specified in division (B) (3) of section 7104
4510.02 of the Revised Code. The court may grant limited driving 7105
privileges to the person only if the person presents proof of 7106
financial responsibility and has complied with division (A) (5) 7107
of this section, and no court may grant limited driving 7108
privileges for the first fifteen days of the suspension. 7109

(c) If, within five years of the violation, the person's 7110
operating privileges are suspended and the person's license is 7111
impounded two or more times for a violation of division (A) (1) 7112
of this section, a class B suspension of the person's driver's 7113
license, commercial driver's license, temporary instruction 7114
permit, probationary license, or nonresident operating privilege 7115
for the period of time specified in division (B) (2) of section 7116
4510.02 of the Revised Code. The court may grant limited driving 7117
privileges to the person only if the person presents proof of 7118
financial responsibility and has complied with division (A) (5) 7119
of this section, except that no court may grant limited driving 7120
privileges for the first thirty days of the suspension. 7121

(d) In addition to the suspension of an owner's license 7122
under division (A) (2) (a), (b), or (c) of this section, the 7123
suspension of the rights of the owner to register the motor 7124

vehicle and the impoundment of the owner's certificate of 7125
registration and license plates until the owner complies with 7126
division (A) (5) of this section. 7127

The clerk of court shall waive the cost of filing a 7128
petition for limited driving privileges if, pursuant to section 7129
2323.311 of the Revised Code, the petitioner applies to be 7130
qualified as an indigent litigant and the court approves the 7131
application. 7132

(3) A person to whom this state has issued a certificate 7133
of registration for a motor vehicle or a license to operate a 7134
motor vehicle or who is determined to have operated any motor 7135
vehicle or permitted the operation in this state of a motor 7136
vehicle owned by the person shall be required to verify the 7137
existence of proof of financial responsibility covering the 7138
operation of the motor vehicle or the person's operation of the 7139
motor vehicle under either of the following circumstances: 7140

(a) The person or a motor vehicle owned by the person is 7141
involved in a traffic accident that requires the filing of an 7142
accident report under section 4509.06 of the Revised Code. 7143

(b) The person receives a traffic ticket indicating that 7144
proof of the maintenance of financial responsibility was not 7145
produced upon the request of a peace officer or state highway 7146
patrol trooper made in accordance with division (D) (2) of this 7147
section. 7148

(4) An order of the registrar that suspends and impounds a 7149
license or registration, or both, shall state the date on or 7150
before which the person is required to surrender the person's 7151
license or certificate of registration and license plates. The 7152
person is deemed to have surrendered the license or certificate 7153

of registration and license plates, in compliance with the 7154
order, if the person does either of the following: 7155

(a) On or before the date specified in the order, 7156
personally delivers the license or certificate of registration 7157
and license plates, or causes the delivery of the items, to the 7158
registrar; 7159

(b) Mails the license or certificate of registration and 7160
license plates to the registrar in an envelope or container 7161
bearing a postmark showing a date no later than the date 7162
specified in the order. 7163

(5) Except as provided in division (L) of this section, 7164
the registrar shall not restore any operating privileges or 7165
registration rights suspended under this section, return any 7166
license, certificate of registration, or license plates 7167
impounded under this section, or reissue license plates under 7168
section 4503.232 of the Revised Code, if the registrar destroyed 7169
the impounded license plates under that section, or reissue a 7170
license under section 4510.52 of the Revised Code, if the 7171
registrar destroyed the suspended license under that section, 7172
unless the rights are not subject to suspension or revocation 7173
under any other law and unless the person, in addition to 7174
complying with all other conditions required by law for 7175
reinstatement of the operating privileges or registration 7176
rights, complies with all of the following: 7177

(a) Pays to the registrar or an eligible deputy registrar 7178
a financial responsibility reinstatement fee of one hundred 7179
dollars for the first violation of division (A)(1) of this 7180
section, three hundred dollars for a second violation of that 7181
division, and six hundred dollars for a third or subsequent 7182
violation of that division; 7183

(b) If the person has not voluntarily surrendered the license, certificate, or license plates in compliance with the order, pays to the registrar or an eligible deputy registrar a financial responsibility nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and continuously maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code;

(d) Pays a deputy registrar a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, any nonvoluntary compliance fee, and two dollars of the service fee to the registrar in the manner the registrar shall determine.

(B) (1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G) (1) (a) of this section or shall present proof of financial responsibility through use of an electronic wireless communications device as permitted by division (G) (1) (b) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A) (1) of this section, the registrar shall do all of the following:

(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A) (2) (d) of this section, of the certificate of registration and license plates of any owner who has violated division (A) (1) of this section;

(b) Order the suspension required under division (A) (2) 7213
(a), (b), or (c) of this section of the license of any operator 7214
or owner who has violated division (A) (1) of this section; 7215

(c) Record the name and address of the person whose 7216
certificate of registration and license plates have been 7217
impounded or are under an order of impoundment, or whose license 7218
has been suspended or is under an order of suspension; the 7219
serial number of the person's license; the serial numbers of the 7220
person's certificate of registration and license plates; and the 7221
person's social security account number, if assigned, or, where 7222
the motor vehicle is used for hire or principally in connection 7223
with any established business, the person's federal taxpayer 7224
identification number. The information shall be recorded in such 7225
a manner that it becomes a part of the person's permanent 7226
record, and assists the registrar in monitoring compliance with 7227
the orders of suspension or impoundment. 7228

(d) Send written notification to every person to whom the 7229
order pertains, at the person's last known address as shown on 7230
the records of the bureau. The person, within ten days after the 7231
date of the mailing of the notification, shall surrender to the 7232
registrar, in a manner set forth in division (A) (4) of this 7233
section, any certificate of registration and registration plates 7234
under an order of impoundment, or any license under an order of 7235
suspension. 7236

(2) The registrar shall issue any order under division (B) 7237
(1) of this section without a hearing. Any person adversely 7238
affected by the order, within ten days after the issuance of the 7239
order, may request an administrative hearing before the 7240
registrar, who shall provide the person with an opportunity for 7241
a hearing in accordance with this paragraph. A request for a 7242

hearing does not operate as a suspension of the order. The scope 7243
of the hearing shall be limited to whether the person in fact 7244
demonstrated to the registrar proof of financial responsibility 7245
in accordance with this section. The registrar shall determine 7246
the date, time, and place of any hearing, provided that the 7247
hearing shall be held, and an order issued or findings made, 7248
within thirty days after the registrar receives a request for a 7249
hearing. If requested by the person in writing, the registrar 7250
may designate as the place of hearing the county seat of the 7251
county in which the person resides or a place within fifty miles 7252
of the person's residence. The person shall pay the cost of the 7253
hearing before the registrar, if the registrar's order of 7254
suspension or impoundment is upheld. 7255

(C) Any order of suspension or impoundment issued under 7256
this section or division (B) of section 4509.37 of the Revised 7257
Code may be terminated at any time if the registrar determines 7258
upon a showing of proof of financial responsibility that the 7259
operator or owner of the motor vehicle was in compliance with 7260
division (A)(1) of this section at the time of the traffic 7261
offense, motor vehicle inspection, or accident that resulted in 7262
the order against the person. A determination may be made 7263
without a hearing. This division does not apply unless the 7264
person shows good cause for the person's failure to present 7265
satisfactory proof of financial responsibility to the registrar 7266
prior to the issuance of the order. 7267

(D)(1)(a) For the purpose of enforcing this section, every 7268
peace officer is deemed an agent of the registrar. 7269

(b) Any peace officer who, in the performance of the peace 7270
officer's duties as authorized by law, becomes aware of a person 7271
whose license is under an order of suspension, or whose 7272

certificate of registration and license plates are under an 7273
order of impoundment, pursuant to this section, may confiscate 7274
the license, certificate of registration, and license plates, 7275
and return them to the registrar. 7276

(2) A peace officer shall request the owner or operator of 7277
a motor vehicle to produce proof of financial responsibility in 7278
a manner described in division (G) of this section at the time 7279
the peace officer acts to enforce the traffic laws of this state 7280
and during motor vehicle inspections conducted pursuant to 7281
section 4513.02 of the Revised Code. 7282

(3) A peace officer shall indicate on every traffic ticket 7283
whether the person receiving the traffic ticket produced proof 7284
of the maintenance of financial responsibility in response to 7285
the officer's request under division (D) (2) of this section. The 7286
peace officer shall inform every person who receives a traffic 7287
ticket and who has failed to produce proof of the maintenance of 7288
financial responsibility that the person must submit proof to 7289
the traffic violations bureau with any payment of a fine and 7290
costs for the ticketed violation or, if the person is to appear 7291
in court for the violation, the person must submit proof to the 7292
court. 7293

(4) (a) If a person who has failed to produce proof of the 7294
maintenance of financial responsibility appears in court for a 7295
ticketed violation, the court may permit the defendant to 7296
present evidence of proof of financial responsibility to the 7297
court at such time and in such manner as the court determines to 7298
be necessary or appropriate. In a manner prescribed by the 7299
registrar, the clerk of courts shall provide the registrar with 7300
the identity of any person who fails to submit proof of the 7301
maintenance of financial responsibility pursuant to division (D) 7302

(3) of this section. 7303

(b) If a person who has failed to produce proof of the 7304
maintenance of financial responsibility also fails to submit 7305
that proof to the traffic violations bureau with payment of a 7306
fine and costs for the ticketed violation, the traffic 7307
violations bureau, in a manner prescribed by the registrar, 7308
shall notify the registrar of the identity of that person. 7309

(5) (a) Upon receiving notice from a clerk of courts or 7310
traffic violations bureau pursuant to division (D) (4) of this 7311
section, the registrar shall order the suspension of the license 7312
of the person required under division (A) (2) (a), (b), or (c) of 7313
this section and the impoundment of the person's certificate of 7314
registration and license plates required under division (A) (2) 7315
(d) of this section, effective thirty days after the date of the 7316
mailing of notification. The registrar also shall notify the 7317
person that the person must present the registrar with proof of 7318
financial responsibility in accordance with this section, 7319
surrender to the registrar the person's certificate of 7320
registration, license plates, and license, or submit a statement 7321
subject to section 2921.13 of the Revised Code that the person 7322
did not operate or permit the operation of the motor vehicle at 7323
the time of the offense. Notification shall be in writing and 7324
shall be sent to the person at the person's last known address 7325
as shown on the records of the bureau of motor vehicles. The 7326
person, within fifteen days after the date of the mailing of 7327
notification, shall present proof of financial responsibility, 7328
surrender the certificate of registration, license plates, and 7329
license to the registrar in a manner set forth in division (A) 7330
(4) of this section, or submit the statement required under this 7331
section together with other information the person considers 7332
appropriate. 7333

If the registrar does not receive proof or the person does not surrender the certificate of registration, license plates, and license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person and the impoundment of the person's certificate of registration and license plates to take effect.

(b) In the case of a person who presents, within the fifteen-day period, proof of financial responsibility, the registrar shall terminate the order of suspension and the impoundment of the registration and license plates required under division (A) (2) (d) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

(c) Any person adversely affected by the order of the registrar under division (D) (5) (a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall

pay the cost of the hearing before the registrar, if the 7365
registrar's order of suspension or impoundment under division 7366
(D) (5) (a) or (b) of this section is upheld. 7367

(6) A peace officer may charge an owner or operator of a 7368
motor vehicle with a violation of section 4510.16 of the Revised 7369
Code when the owner or operator fails to show proof of the 7370
maintenance of financial responsibility pursuant to a peace 7371
officer's request under division (D) (2) of this section, if a 7372
check of the owner or operator's driving record indicates that 7373
the owner or operator, at the time of the operation of the motor 7374
vehicle, is required to file and maintain proof of financial 7375
responsibility under section 4509.45 of the Revised Code for a 7376
previous violation of this chapter. 7377

(7) Any forms used by law enforcement agencies in 7378
administering this section shall be prescribed, supplied, and 7379
paid for by the registrar. 7380

(8) No peace officer, law enforcement agency employing a 7381
peace officer, or political subdivision or governmental agency 7382
that employs a peace officer shall be liable in a civil action 7383
for damages or loss to persons arising out of the performance of 7384
any duty required or authorized by this section. 7385

(9) As used in this section, "peace officer" has the 7386
meaning set forth in section 2935.01 of the Revised Code. 7387

(E) All fees, except court costs, fees paid to a deputy 7388
registrar, and those portions of the financial responsibility 7389
reinstatement fees as otherwise specified in this division, 7390
collected under this section shall be paid into the state 7391
treasury to the credit of the public safety - highway purposes 7392
fund established in section 4501.06 of the Revised Code and used 7393

to cover costs incurred by the bureau in the administration of 7394
this section and sections 4503.20, 4507.212, and 4509.81 of the 7395
Revised Code, and by any law enforcement agency employing any 7396
peace officer who returns any license, certificate of 7397
registration, and license plates to the registrar pursuant to 7398
division (C) of this section. 7399

Of each financial responsibility reinstatement fee the 7400
registrar collects pursuant to division (A) (5) (a) of this 7401
section or receives from a deputy registrar under division (A) 7402
(5) (d) of this section, the registrar shall deposit twenty-five 7403
dollars of each one-hundred-dollar reinstatement fee, fifty 7404
dollars of each three-hundred-dollar reinstatement fee, and one 7405
hundred dollars of each six-hundred-dollar reinstatement fee 7406
into the state treasury to the credit of the indigent defense 7407
support fund created by section 120.08 of the Revised Code. 7408

(F) Chapter 119. of the Revised Code applies to this 7409
section only to the extent that any provision in that chapter is 7410
not clearly inconsistent with this section. 7411

(G) (1) (a) The registrar, court, traffic violations bureau, 7412
or peace officer may require proof of financial responsibility 7413
to be demonstrated by use of a standard form prescribed by the 7414
registrar. If the use of a standard form is not required, a 7415
person may demonstrate proof of financial responsibility under 7416
this section by presenting to the traffic violations bureau, 7417
court, registrar, or peace officer any of the following 7418
documents or a copy of the documents: 7419

(i) A financial responsibility identification card as 7420
provided in section 4509.103 of the Revised Code; 7421

(ii) A certificate of proof of financial responsibility on 7422

a form provided and approved by the registrar for the filing of 7423
an accident report required to be filed under section 4509.06 of 7424
the Revised Code; 7425

(iii) A policy of liability insurance, a declaration page 7426
of a policy of liability insurance, or liability bond, if the 7427
policy or bond complies with section 4509.20 or sections 4509.49 7428
to 4509.61 of the Revised Code; 7429

(iv) A bond or certification of the issuance of a bond as 7430
provided in section 4509.59 of the Revised Code; 7431

(v) A certificate of deposit of money ~~or securities~~ as 7432
provided in section 4509.62 of the Revised Code; 7433

(vi) A certificate of self-insurance as provided in 7434
section 4509.72 of the Revised Code. 7435

(b) A person also may present proof of financial 7436
responsibility under this section to the traffic violations 7437
bureau, court, registrar, or peace officer through use of an 7438
electronic wireless communications device as specified under 7439
section 4509.103 of the Revised Code. 7440

(2) If a person fails to demonstrate proof of financial 7441
responsibility in a manner described in division (G)(1) of this 7442
section, the person may demonstrate proof of financial 7443
responsibility under this section by any other method that the 7444
court or the bureau, by reason of circumstances in a particular 7445
case, may consider appropriate. 7446

(3) A motor carrier certificated by the interstate 7447
commerce commission or by the public utilities commission may 7448
demonstrate proof of financial responsibility by providing a 7449
statement designating the motor carrier's operating authority 7450
and averring that the insurance coverage required by the 7451

certificating authority is in full force and effect. 7452

(4) (a) A finding by the registrar or court that a person 7453
is covered by proof of financial responsibility in the form of 7454
an insurance policy or surety bond is not binding upon the named 7455
insurer or surety or any of its officers, employees, agents, or 7456
representatives and has no legal effect except for the purpose 7457
of administering this section. 7458

(b) The preparation and delivery of a financial 7459
responsibility identification card or any other document 7460
authorized to be used as proof of financial responsibility and 7461
the generation and delivery of proof of financial responsibility 7462
to an electronic wireless communications device that is 7463
displayed on the device as text or images does not do any of the 7464
following: 7465

(i) Create any liability or estoppel against an insurer or 7466
surety, or any of its officers, employees, agents, or 7467
representatives; 7468

(ii) Constitute an admission of the existence of, or of 7469
any liability or coverage under, any policy or bond; 7470

(iii) Waive any defenses or counterclaims available to an 7471
insurer, surety, agent, employee, or representative in an action 7472
commenced by an insured or third-party claimant upon a cause of 7473
action alleged to have arisen under an insurance policy or 7474
surety bond or by reason of the preparation and delivery of a 7475
document for use as proof of financial responsibility or the 7476
generation and delivery of proof of financial responsibility to 7477
an electronic wireless communications device. 7478

(c) Whenever it is determined by a final judgment in a 7479
judicial proceeding that an insurer or surety, which has been 7480

named on a document or displayed on an electronic wireless 7481
communications device accepted by a court or the registrar as 7482
proof of financial responsibility covering the operation of a 7483
motor vehicle at the time of an accident or offense, is not 7484
liable to pay a judgment for injuries or damages resulting from 7485
such operation, the registrar, notwithstanding any previous 7486
contrary finding, shall forthwith suspend the operating 7487
privileges and registration rights of the person against whom 7488
the judgment was rendered as provided in division (A) (2) of this 7489
section. 7490

(H) In order for any document or display of text or images 7491
on an electronic wireless communications device described in 7492
division (G) (1) of this section to be used for the demonstration 7493
of proof of financial responsibility under this section, the 7494
document or words or images shall state the name of the insured 7495
or obligor, the name of the insurer or surety company, and the 7496
effective and expiration dates of the financial responsibility, 7497
and designate by explicit description or by appropriate 7498
reference all motor vehicles covered which may include a 7499
reference to fleet insurance coverage. 7500

(I) For purposes of this section, "owner" does not include 7501
a licensed motor vehicle leasing dealer as defined in section 7502
4517.01 of the Revised Code, but does include a motor vehicle 7503
renting dealer as defined in section 4549.65 of the Revised 7504
Code. Nothing in this section or in section 4509.51 of the 7505
Revised Code shall be construed to prohibit a motor vehicle 7506
renting dealer from entering into a contractual agreement with a 7507
person whereby the person renting the motor vehicle agrees to be 7508
solely responsible for maintaining proof of financial 7509
responsibility, in accordance with this section, with respect to 7510
the operation, maintenance, or use of the motor vehicle during 7511

the period of the motor vehicle's rental. 7512

(J) The purpose of this section is to require the 7513
maintenance of proof of financial responsibility with respect to 7514
the operation of motor vehicles on the highways of this state, 7515
so as to minimize those situations in which persons are not 7516
compensated for injuries and damages sustained in motor vehicle 7517
accidents. The general assembly finds that this section contains 7518
reasonable civil penalties and procedures for achieving this 7519
purpose. 7520

(K) Nothing in this section shall be construed to be 7521
subject to section 4509.78 of the Revised Code. 7522

(L) (1) The registrar may terminate any suspension imposed 7523
under this section and not require the owner to comply with 7524
divisions (A) (5) (a), (b), and (c) of this section if the 7525
registrar with or without a hearing determines that the owner of 7526
the vehicle has established by clear and convincing evidence 7527
that all of the following apply: 7528

(a) The owner customarily maintains proof of financial 7529
responsibility. 7530

(b) Proof of financial responsibility was not in effect 7531
for the vehicle on the date in question for one of the following 7532
reasons: 7533

(i) The vehicle was inoperable. 7534

(ii) The vehicle is operated only seasonally, and the date 7535
in question was outside the season of operation. 7536

(iii) A person other than the vehicle owner or driver was 7537
at fault for the lapse of proof of financial responsibility 7538
through no fault of the owner or driver. 7539

(iv) The lapse of proof of financial responsibility was 7540
caused by excusable neglect under circumstances that are not 7541
likely to recur and do not suggest a purpose to evade the 7542
requirements of this chapter. 7543

(2) The registrar may grant an owner or driver relief for 7544
a reason specified in division (L)(1)(b)(iii) or (iv) of this 7545
section only if the owner or driver has not previously been 7546
granted relief under division (L)(1)(b)(iii) or (iv) of this 7547
section. 7548

(M) The registrar shall adopt rules in accordance with 7549
Chapter 119. of the Revised Code that are necessary to 7550
administer and enforce this section. The rules shall include 7551
procedures for the surrender of license plates upon failure to 7552
maintain proof of financial responsibility and provisions 7553
relating to reinstatement of registration rights, acceptable 7554
forms of proof of financial responsibility, the use of an 7555
electronic wireless communications device to present proof of 7556
financial responsibility, and verification of the existence of 7557
financial responsibility during the period of registration. 7558

(N) (1) When a person utilizes an electronic wireless 7559
communications device to present proof of financial 7560
responsibility, only the evidence of financial responsibility 7561
displayed on the device shall be viewed by the registrar, peace 7562
officer, employee or official of the traffic violations bureau, 7563
or the court. No other content of the device shall be viewed for 7564
purposes of obtaining proof of financial responsibility. 7565

(2) When a person provides an electronic wireless 7566
communications device to the registrar, a peace officer, an 7567
employee or official of a traffic violations bureau, or the 7568
court, the person assumes the risk of any resulting damage to 7569

the device unless the registrar, peace officer, employee, or 7570
official, or court personnel purposely, knowingly, or recklessly 7571
commits an action that results in damage to the device. 7572

Sec. 4509.45. (A) As used in this section, "electronic 7573
wireless communications device" has the same meaning as in 7574
section 4509.103 of the Revised Code. 7575

(B) Proof of financial responsibility when required under 7576
section 4509.101, 4509.33, 4509.34, 4509.38, 4509.40, 4509.42, 7577
4509.44, or 4510.038 of the Revised Code may be given by filing 7578
any of the following: 7579

(1) A financial responsibility identification card as 7580
provided in section 4509.104 of the Revised Code; 7581

(2) A certificate of insurance as provided in section 7582
4509.46 or 4509.47 of the Revised Code; 7583

(3) A bond as provided in section 4509.59 of the Revised 7584
Code; 7585

(4) A certificate of deposit of money ~~or securities~~ as 7586
provided in section 4509.62 of the Revised Code; 7587

(5) A certificate of self-insurance, as provided in 7588
section 4509.72 of the Revised Code, supplemented by an 7589
agreement by the self-insurer that, with respect to accidents 7590
occurring while the certificate is in force, the self-insurer 7591
will pay the same amounts that an insurer would have been 7592
obligated to pay under an owner's motor vehicle liability policy 7593
if it had issued such a policy to the self-insurer. 7594

(C) When proof of financial responsibility is required to 7595
be given under section 4509.101 of the Revised Code, such proof 7596
also may be given through use of an electronic wireless 7597

communications device as provided in that section. 7598

(D) Proof under division (B) of this section shall be 7599
filed and maintained for five years from the date of the 7600
registrar's imposition of a class A, B, or C suspension of 7601
operating privileges and shall be filed and maintained for three 7602
years from the date of the registrar's imposition of a class D, 7603
E, or F suspension of operating privileges. Proof of financial 7604
responsibility that is required to be filed and maintained with 7605
the registrar during a period of suspension of operating 7606
privileges described in this division shall not be given through 7607
the use of an electronic wireless communications device. 7608

Sec. 4509.62. ~~Proof~~ A person may effectuate proof of 7609
financial responsibility ~~may be evidenced by the certificate of~~ 7610
~~the treasurer of state that the person named therein has~~ 7611
~~deposited with him~~ depositing with the registrar of motor 7612
vehicles thirty thousand dollars in money ~~or bonds of the United~~ 7613
~~States, of this state, or of a political subdivision of this~~ 7614
~~state at their par or face value. The treasurer of state~~ 7615
registrar shall not accept any such deposit ~~and issue a~~ 7616
~~certificate therefor and the registrar shall not accept such~~ 7617
~~certificate~~ unless it is accompanied by evidence that there are 7618
no unsatisfied judgments against the depositor in the county 7619
where the depositor resides. 7620

The financial responsibility custodial fund is created, 7621
which shall be in the custody of the treasurer of state but 7622
shall not be part of the state treasury. All money deposited 7623
under this section shall be credited to that fund. 7624

Sec. 4509.63. The deposit provided for in section 4509.62 7625
of the Revised Code shall be held by the ~~treasurer of state~~ 7626
registrar of motor vehicles to satisfy, in accordance with 7627

sections 4509.01 to 4509.78, inclusive, of the Revised Code, any 7628
execution on a judgment, against the person making the deposit, 7629
for damages, including damages for care and loss of services, 7630
because of bodily injury to or death of any person, or for 7631
damages because of injury to property, including the loss of use 7632
thereof, resulting from the ownership, maintenance, or use of a 7633
motor vehicle after such deposit was made. Money ~~or securities~~ 7634
so deposited shall not be subject to attachment or execution 7635
unless such attachment or execution arises out of a suit for 7636
damages as described in this section. 7637

Sec. 4509.65. The registrar of motor vehicles shall 7638
consent to the cancellation of any bond or certificate of 7639
insurance or ~~the registrar shall direct and the treasurer of~~ 7640
~~state shall~~ return any money ~~or securities~~ to the person 7641
entitled thereto upon the substitution and acceptance of other 7642
adequate proof of financial responsibility in accordance with 7643
sections 4509.01 to 4509.78, inclusive, of the Revised Code. 7644

Sec. 4509.67. (A) The registrar of motor vehicles shall, 7645
upon request, consent to the immediate cancellation of any bond 7646
or certificate of insurance, ~~or shall direct and the treasurer~~ 7647
~~of state shall~~ return to the person entitled any money ~~or~~ 7648
~~securities~~ deposited under sections 4509.01 to 4509.78 of the 7649
Revised Code, as proof of financial responsibility, or ~~the~~ 7650
~~registrar shall~~ waive the requirement of filing proof, in any of 7651
the following events: 7652

(1) At any time after three years from the date such proof 7653
was required when, during the three years preceding the request, 7654
the registrar has not received record of a conviction or bail 7655
forfeiture which would require or permit the suspension or 7656
revocation of the license, registration or nonresident's 7657

operating privilege of the person by or for whom such proof was 7658
furnished and the person's motor vehicle registration has not 7659
been suspended for a violation of section 4509.101 of the 7660
Revised Code; 7661

(2) In the event of the death of the person on whose 7662
behalf such proof was filed or the permanent incapacity of such 7663
person to operate a motor vehicle; 7664

(3) In the event the person who has given proof surrenders 7665
his the person's license and registration to the registrar. 7666

(B) The registrar shall not consent to the cancellation of 7667
any bond or the return of any money ~~or securities~~ if any action 7668
for damages upon a liability covered by such proof is pending, 7669
or any judgment upon any such liability is unsatisfied, or in 7670
the event the person who has filed such bond or deposited such 7671
money ~~or securities~~ has within two years immediately preceding 7672
such request been involved as a driver or owner in any ~~motor-~~ 7673
~~vehicle~~ motor vehicle accident resulting in injury to the person 7674
or property of others. An affidavit of the applicant as to the 7675
nonexistence of such facts, or that he the applicant has been 7676
released from all liability, or has been finally adjudicated not 7677
liable, for such injury may be accepted as evidence thereof in 7678
the absence of evidence to the contrary in the records of the 7679
registrar. 7680

(C) Whenever any person whose proof has been canceled or 7681
returned under division (A) (3) of this section applies for a 7682
license or registration within a period of three years from the 7683
date proof was originally required, any such application shall 7684
be refused unless the applicant re-establishes proof of 7685
financial responsibility for the remainder of the three-year 7686
period. 7687

Sec. 4710.03. Nothing in this chapter applies to any of 7688
the following: 7689

(A) The federal national mortgage association; the federal 7690
home loan mortgage corporation; a bank, bank holding company, 7691
trust company, savings and loan association, credit union, 7692
savings bank, or credit card bank, that is regulated by the 7693
office of the comptroller of currency, ~~office of thrift~~ 7694
~~supervision,~~ federal reserve, federal deposit insurance 7695
corporation, national credit union administration, or division 7696
of financial institutions; or to subsidiaries of any of these 7697
entities; 7698

(B) Debt adjusting incurred in the practice of law in this 7699
state; 7700

(C) A person that incidentally engages in debt adjusting 7701
to adjust the indebtedness owed to that person; 7702

(D) A registrant as defined in section 1321.51 of the 7703
Revised Code; 7704

(E) A registrant or licensee as both are defined in 7705
section 1322.01 of the Revised Code. 7706

Sec. 4749.01. As used in this chapter: 7707

(A) "Private investigator" means any person who engages in 7708
the business of private investigation. 7709

(B) "Business of private investigation" means, except when 7710
performed by one excluded under division (H) of this section, 7711
the conducting, for hire, in person or through a partner or 7712
employees, of any investigation relevant to any crime or wrong 7713
done or threatened, or to obtain information on the identity, 7714
habits, conduct, movements, whereabouts, affiliations, 7715

transactions, reputation, credibility, or character of any 7716
person, or to locate and recover lost or stolen property, or to 7717
determine the cause of or responsibility for any libel or 7718
slander, or any fire, accident, or damage to property, or to 7719
secure evidence for use in any legislative, administrative, or 7720
judicial investigation or proceeding. 7721

(C) "Security guard provider" means any person who engages 7722
in the business of security services. 7723

(D) "Business of security services" means either of the 7724
following: 7725

(1) Furnishing, for hire, watchpersons, guards, private 7726
patrol officers, or other persons whose primary duties are to 7727
protect persons or property; 7728

(2) Furnishing, for hire, guard dogs, or armored motor 7729
vehicle security services, in connection with the protection of 7730
persons or property. 7731

(E) "Class A license" means a license issued under section 7732
4749.03 of the Revised Code that qualifies the person issued the 7733
license to engage in the business of private investigation and 7734
the business of security services. 7735

(F) "Class B license" means a license issued under section 7736
4749.03 of the Revised Code that qualifies the person issued the 7737
license to engage only in the business of private investigation. 7738

(G) "Class C license" means a license issued under section 7739
4749.03 of the Revised Code that qualifies the person issued the 7740
license to engage only in the business of security services. 7741

(H) "Private investigator," "business of private 7742
investigation," "security guard provider," and "business of 7743

security services" do not include: 7744

(1) Public officers and employees whose official duties 7745
require them to engage in investigatory activities; 7746

(2) Attorneys at law or any expert hired by an attorney at 7747
law for consultation or litigation purposes; 7748

(3) A consumer reporting agency, as defined in the "Fair 7749
Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 7750
amended, provided that the consumer reporting agency is in 7751
compliance with the requirements of that act and that the 7752
agency's activities are confined to any of the following: 7753

(a) The issuance of consumer credit reports; 7754

(b) The conducting of limited background investigations 7755
that pertain only to a client's prospective tenant and that are 7756
engaged in with the prior written consent of the prospective 7757
tenant; 7758

(c) The business of pre-employment background 7759
investigation. As used in division (H) (3) (c) of this section, 7760
"business of pre-employment background investigation" means, and 7761
is limited to, furnishing for hire, in person or through a 7762
partner or employees, the conducting of limited background 7763
investigations, in-person interviews, telephone interviews, or 7764
written inquiries that pertain only to a client's prospective 7765
employee and the employee's employment and that are engaged in 7766
with the prior written consent of the prospective employee. 7767

(4) Certified public insurance adjusters that hold a 7768
certificate of authority issued pursuant to sections 3951.01 to 7769
3951.09 of the Revised Code, while the adjuster is investigating 7770
the cause of or responsibility for a fire, accident, or other 7771
damage to property with respect to a claim or claims for loss or 7772

damage under a policy of insurance covering real or personal property;	7773 7774
(5) Personnel placement services and persons who act as employees of such entities engaged in investigating matters related to personnel placement activities;	7775 7776 7777
(6) An employee in the regular course of the employee's employment, engaged in investigating matters pertinent to the business of the employee's employer or protecting property in the possession of the employee's employer, provided the employer is deducting all applicable state and federal employment taxes on behalf of the employee and neither the employer nor the employee is employed by, associated with, or acting for or on behalf of any private investigator or security guard provider;	7778 7779 7780 7781 7782 7783 7784 7785
(7) Any better business bureau or similar organization or any of its employees while engaged in the maintenance of the quality of business activities relating to consumer sales and services;	7786 7787 7788 7789
(8) An accountant who is registered or certified under Chapter 4701. of the Revised Code or any of the accountant's employees while engaged in activities for which the accountant is certified or registered;	7790 7791 7792 7793
(9) Any person who, for hire or otherwise, conducts genealogical research in this state.	7794 7795
As used in division (H) (9) of this section, "genealogical research" means the determination of the origins and descent of families, including the identification of individuals, their family relationships, and the biographical details of their lives. "Genealogical research" does not include furnishing for hire services for locating missing persons or natural or birth	7796 7797 7798 7799 7800 7801

parents or children. 7802

(10) Any person residing in this state who conducts 7803
research for the purpose of locating the last known owner of 7804
unclaimed funds, provided that the person is in compliance with 7805
Chapter 169. of the Revised Code and rules adopted thereunder. 7806
The exemption set forth in division (H) (10) of this section 7807
applies only to the extent that the person is conducting 7808
research for the purpose of locating the last known owner of 7809
unclaimed funds. 7810

As used in division (H) (10) of this section, "owner" and 7811
"unclaimed funds" have the same meanings as in section 169.01 of 7812
the Revised Code. 7813

(11) A professional engineer who is registered under 7814
Chapter 4733. of the Revised Code or any of his employees. 7815

As used in division (H) (11) of this section and 7816
notwithstanding division (I) of this section, "employee" has the 7817
same meaning as in section 4101.01 of the Revised Code. 7818

(12) Any person residing in this state who, for hire or 7819
otherwise, conducts research for the purpose of locating persons 7820
to whom the state of Ohio owes money in the form of warrants, as 7821
defined in ~~division (S) of~~ section 131.01 of the Revised Code, 7822
that the state voided but subsequently reissues. 7823

(13) An independent insurance adjuster who, as an 7824
individual, an independent contractor, an employee of an 7825
independent contractor, adjustment bureau association, 7826
corporation, insurer, partnership, local recording agent, 7827
managing general agent, or self-insurer, engages in the business 7828
of independent insurance adjustment, or any person who 7829
supervises the handling of claims except while acting as an 7830

employee of an insurer licensed in this state while handling 7831
claims pertaining to specific policies written by that insurer. 7832

As used in division (H)(13) of this section, "independent 7833
insurance adjustment" means conducting investigations to 7834
determine the cause of or circumstances concerning a fire, 7835
accident, bodily injury, or damage to real or personal property; 7836
determining the extent of damage of that fire, accident, injury, 7837
or property damage; securing evidence for use in a legislative, 7838
administrative, or judicial investigation or proceeding, 7839
adjusting losses; and adjusting or settling claims, including 7840
the investigation, adjustment, denial, establishment of damages, 7841
negotiation, settlement, or payment of claims in connection with 7842
insurance contractors, self-insured programs, or other similar 7843
insurance programs. "Independent adjuster" does not include 7844
either of the following: 7845

(a) An attorney who adjusts insurance losses incidental to 7846
the practice of law and who does not advertise or represent that 7847
the attorney is an independent insurance adjuster; 7848

(b) A licensed agent or general agent of an insurer 7849
licensed in this state who processes undisputed or uncontested 7850
losses for insurers under policies issued by that agent or 7851
general agent. 7852

(14) Except for a commissioned peace officer who engages 7853
in the business of private investigation or compensates others 7854
who engage in the business of private investigation or the 7855
business of security services or both, any commissioned peace 7856
officer as defined in division (B) of section 2935.01 of the 7857
Revised Code. 7858

(I) "Employee" means every person who may be required or 7859

directed by any employer, in consideration of direct or indirect 7860
gain or profit, to engage in any employment, or to go, or work, 7861
or be at any time in any place of employment, provided that the 7862
employer of the employee deducts all applicable state and 7863
federal employment taxes on behalf of the employee. 7864

Sec. 4763.13. (A) In engaging in appraisal activities, a 7865
person certified, registered, or licensed under this chapter 7866
shall comply with the applicable standards prescribed by the 7867
board of governors of the federal reserve system, the federal 7868
deposit insurance corporation, the comptroller of the currency, 7869
~~the office of thrift supervision,~~ the national credit union 7870
administration, and the resolution trust corporation in 7871
connection with federally related transactions under the 7872
jurisdiction of the applicable agency or instrumentality. A 7873
certificate holder, registrant, and licensee also shall comply 7874
with the uniform standards of professional appraisal practice, 7875
as adopted by the appraisal standards board of the appraisal 7876
foundation and such other standards adopted by the real estate 7877
appraiser board, to the extent that those standards do not 7878
conflict with applicable federal standards in connection with a 7879
particular federally related transaction. 7880

(B) The terms "state-licensed residential real estate 7881
appraiser," "state-certified residential real estate appraiser," 7882
"state-certified general real estate appraiser," and "state- 7883
registered real estate appraiser assistant" shall be used to 7884
refer only to those persons who have been issued the applicable 7885
certificate, registration, or license or renewal certificate, 7886
registration, or license pursuant to this chapter. None of these 7887
terms shall be used following or in connection with the name or 7888
signature of a partnership, corporation, or association or in a 7889
manner that could be interpreted as referring to a person other 7890

than the person to whom the certificate, registration, or 7891
license has been issued. No person shall fail to comply with 7892
this division. 7893

(C) No person, other than a certificate holder, a 7894
registrant, or a licensee, shall assume or use a title, 7895
designation, or abbreviation that is likely to create the 7896
impression that the person possesses certification, 7897
registration, or licensure under this chapter, provided that 7898
professional designations containing the term "certified 7899
appraiser" and being used on or before July 26, 1989, shall not 7900
be construed as being misleading under this division. No person 7901
other than a person certified or licensed under this chapter 7902
shall describe or refer to an appraisal or other evaluation of 7903
real estate located in this state as being certified. 7904

(D) The terms "state-certified or state-licensed real 7905
estate appraisal report," "state-certified or state-licensed 7906
appraisal report," or "state-certified or state-licensed 7907
appraisal" shall be used to refer only to those real estate 7908
appraisals conducted by a certificate holder or licensee as a 7909
disinterested and unbiased third party provided that the 7910
certificate holder or licensee provides certification with the 7911
appraisal report and provided further that if a licensee is 7912
providing the appraisal, such terms shall only be used if the 7913
licensee is acting within the scope of the licensee's license. 7914
No person shall fail to comply with this division. 7915

(E) Nothing in this chapter shall preclude a partnership, 7916
corporation, or association which employs, retains, or engages 7917
the services of a certificate holder or licensee to advertise 7918
that the partnership, corporation, or association offers state- 7919
certified or state-licensed appraisals through a certificate 7920

holder or licensee if the advertisement clearly states such fact 7921
in accordance with guidelines for such advertisements 7922
established by rule of the real estate appraiser board. 7923

(F) Except as otherwise provided in section 4763.19 of the 7924
Revised Code, nothing in this chapter shall preclude a person 7925
who is not licensed or certified under this chapter from 7926
appraising real estate for compensation. 7927

Sec. 5725.17. (A) In addition to any other penalty imposed 7928
by this chapter or Chapter 5703. of the Revised Code, the 7929
following penalties shall apply: 7930

(1) If a dealer in intangibles fails to make and furnish 7931
to the tax commissioner the report required by section 5725.14 7932
of the Revised Code, within the time fixed by that section, a 7933
penalty shall be imposed equal to the greater of fifty dollars 7934
per month or fraction of a month, not to exceed five hundred 7935
dollars, or five per cent per month or fraction of a month, not 7936
to exceed fifty per cent, of the tax required to be shown on the 7937
report, for each month or fraction of a month elapsing between 7938
the due date, including extensions of the due date, and the date 7939
on which the report is filed. 7940

(2) If a dealer in intangibles fails to pay any amounts of 7941
the tax levied by division (D) of section 5707.03 of the Revised 7942
Code by the dates prescribed for payment, a penalty shall be 7943
imposed equal to the greater of ~~the penalty due under division-~~ 7944
~~(F) of section 5725.22 of the Revised Code, for which this~~ 7945
~~penalty shall be a substitute~~ (a) five per cent of the taxes due, 7946
if payment is made within ten calendar days of the date shown on 7947
the tax bill, or ten per cent of the taxes due, if payment is 7948
not made within ten days of such date, or (b) two times the 7949
interest charged under section 5725.221 of the Revised Code for 7950

the delinquent payment. 7951

(3) If a dealer in intangibles submits a report required 7952
by section 5725.14 of the Revised Code that is marked, defaced, 7953
or otherwise designed by the dealer to be a frivolous protest or 7954
an attempt to delay or impede the administration of the tax 7955
levied by division (D) of section 5707.03 of the Revised Code, a 7956
penalty shall be imposed equal to the greater of one hundred 7957
dollars or twenty-five per cent of the tax required to be shown 7958
on the report. 7959

(4) If a dealer in intangibles makes a fraudulent attempt 7960
to evade the reporting or payment of the tax levied by division 7961
(D) of section 5707.03 of the Revised Code, a penalty shall be 7962
imposed equal to the greater of one thousand dollars or one 7963
hundred per cent of the tax required to be shown on the report 7964
required by section 5725.14 of the Revised Code. 7965

(5) If any person makes a false or fraudulent claim for 7966
abatement or refund of the tax levied by division (D) of section 7967
5707.03 of the Revised Code, a penalty shall be imposed equal to 7968
the greater of one thousand dollars or one hundred per cent of 7969
the claim. The penalty imposed by this division, any abatement 7970
or refund on the claim, and interest on any refund from the date 7971
of the refund, may be assessed under section 5725.15 of the 7972
Revised Code or added by the tax commissioner as tax, penalty, 7973
and interest due from the tax levied by division (D) of section 7974
5707.03 of the Revised Code, without regard to whether the 7975
person making the claim is otherwise subject to the tax, and 7976
without regard to any time limitation for assessment. 7977

(B) Each penalty imposed under division (A) of this 7978
section shall be in addition to any other penalty imposed under 7979
that division. All or part of any penalty imposed under division 7980

(A) of this section may be abated by the commissioner. 7981

Sec. 5725.22. (A) The treasurer of state shall maintain an 7982
~~intangible property tax list of taxes levied by section 5707.03~~ 7983
~~of the Revised Code and certified by the tax commissioner~~ 7984
~~pursuant to sections 5711.13, 5725.08, 5725.16, and 5727.15 of~~ 7985
~~the Revised Code, and a separate list of taxes levied by section~~ 7986
5725.18 of the Revised Code and certified for assessment by the 7987
superintendent of insurance pursuant to section 5725.20 of the 7988
Revised Code. 7989

~~(B)(1) With respect to taxes levied under section 5725.18~~ 7990
~~of the Revised Code, the treasurer of state, upon receipt of an~~ 7991
~~assessment, shall compute the taxes at the rates prescribed by~~ 7992
~~law and enter the taxes on the proper tax list.~~ (B) The 7993
treasurer of state shall collect, and the taxpayer shall pay, 7994
all ~~such~~ taxes levied under section 5725.18 of the Revised Code 7995
and any interest applicable thereto. Payments may be made ~~by~~ 7996
~~mail, in person,~~ electronically or by any other means authorized 7997
by the treasurer of state. ~~The~~ Whenever the superintendent of 7998
insurance submits an electronic call for data, the treasurer of 7999
state shall render a daily itemized statement electronically 8000
submit to the superintendent ~~of insurance of the data requested,~~ 8001
including the amount of taxes collected and the name of the 8002
domestic insurance company from whom collected. The treasurer of 8003
state may adopt rules concerning the methods and timeliness of 8004
payments under this division. 8005

~~(2) With respect to taxes levied under section 5707.03 of~~ 8006
~~the Revised Code, any assessment certified to the treasurer of~~ 8007
~~state shall reflect the taxes computed at the rates prescribed~~ 8008
~~by law. Upon receipt of such an assessment, the treasurer shall~~ 8009
~~enter the taxes on the proper tax list. The tax commissioner~~ 8010

~~shall collect, and the taxpayer shall pay, all such taxes and
any interest applicable thereto. Payments may be made by mail,
in person, or by any other means authorized by the commissioner.
The commissioner shall immediately forward to the treasurer any
payments received under this division, together with any
information necessary for the treasurer to properly credit such
payments. The commissioner may adopt rules concerning the method
and timeliness of payments under this division.~~

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(C) Each tax bill issued pursuant to this section shall
separately reflect the taxes due, interest, if any, due date,
and any other information considered necessary. ~~With respect to
taxes levied under section 5725.18 of the Revised Code, the~~ The
last day on which payment may be made without penalty shall be
the fifteenth day of June, unless that day is not a business day
as defined in section 5709.40 of the Revised Code, in which case
the payment may be made on the next business day. ~~With respect
to taxes levied under section 5707.03 of the Revised Code, the
last day on which payment may be made without penalty shall be
at least twenty but not more than thirty days from the date of
mailing the tax bill.~~ The treasurer of state ~~or tax~~
~~commissioner, as appropriate, shall issue the tax bill and, if
the tax bill is issued by mail, the mailing thereof shall be
prima facie evidence of receipt thereof by the taxpayer~~ to the
taxpayer electronically through the department of insurance's
web site.

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The treasurer ~~or commissioner, as appropriate, of state~~
shall refund taxes as provided in this section, but no refund
shall be made to a taxpayer having a delinquent claim certified
pursuant to this section that remains unpaid. The treasurer ~~or~~
~~commissioner of state~~ may consult the attorney general regarding
such claims. Refunds shall be paid from the tax refund fund

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created by section 5703.052 of the Revised Code. 8042

(D) (1) ~~Within twenty days after receipt of any preliminary~~ 8043
~~assessment of taxes levied under section 5725.18 of the Revised~~ 8044
~~Code. Unless an exigency exists,~~ the treasurer of state shall 8045
issue a tax bill within twenty days after receipt of an 8046
assessment certified by the superintendent of insurance under 8047
section 5725.20 of the Revised Code, but if such ~~preliminary~~ 8048
assessment reflects a late filed tax return, the treasurer of 8049
state shall add interest as provided in division (A) of section 8050
5725.221 of the Revised Code and issue a tax bill. In the case 8051
of an exigency, the treasurer of state shall issue the tax bill 8052
as soon as possible and may extend the due date for payment of 8053
the tax prescribed by division (C) of this section. 8054

(2) After receipt of any amended or final assessment of 8055
taxes ~~levied under section 5725.18 of the Revised Code~~ received 8056
from the superintendent of insurance pursuant to section 5725.20 8057
of the Revised Code, the treasurer of state shall ascertain the 8058
difference between the total taxes computed on such assessment 8059
and the total taxes computed on the most recent assessment 8060
certified for the same tax year. If the difference is a 8061
deficiency, the treasurer of state shall add interest as 8062
provided in division (B) (1) of section 5725.221 of the Revised 8063
Code and issue a tax bill, with payment due thirty days after 8064
the date of the bill is issued. ~~Unless an exigency exists, the~~ 8065
~~treasurer shall issue the tax bill on or before the fifteenth~~ 8066
~~day of May. In the case of an exigency, the treasurer shall~~ 8067
~~issue the tax bill as soon as possible after the fifteenth day~~ 8068
~~of May and may extend the due date for payment of the tax~~ 8069
~~prescribed by division (C) of this section.~~ If the difference is 8070
an excess, the treasurer of state shall add interest as provided 8071
in division (B) (2) of section 5725.221 of the Revised Code and 8072

certify the name of the taxpayer and the amount to be refunded 8073
to the director of budget and management for payment to the 8074
taxpayer. If the taxpayer has a deficiency for one tax year and 8075
an excess for another tax year, or any combination thereof for 8076
more than two tax years, the treasurer of state may determine 8077
the net result after adding interest, if applicable, and, 8078
depending on such result, proceed to issue a tax bill or certify 8079
a refund. 8080

~~(E) (1) Except as provided in division (E) (2) of this 8081
section, within twenty days after certifying to the treasurer of 8082
state an amended or final assessment, or a preliminary 8083
assessment of a dealer in intangibles that has failed to file a 8084
report or disclose taxable property, the tax commissioner shall 8085
ascertain the difference between the total taxes computed on 8086
such assessment and the total taxes computed on the most recent 8087
assessment certified for the same tax year, if any. If the 8088
difference is a deficiency, the commissioner shall add interest 8089
as provided in division (B) (1) of section 5725.221 of the 8090
Revised Code and issue a tax bill. If the difference is an 8091
excess, the commissioner shall add interest as provided in 8092
division (B) (2) of section 5725.221 of the Revised Code and 8093
certify the name of the taxpayer and the amount to be refunded 8094
to the director of budget and management for payment to the 8095
taxpayer. If the taxpayer has a deficiency for one tax year and 8096
excess for another tax year, or any combination thereof for more 8097
than two tax years, the commissioner may determine the net 8098
result after adding interest, if applicable, and, depending on 8099
such result, proceed to mail a tax bill or certify a refund. 8100~~

~~(2) The tax commissioner may issue a tax bill for any 8101
deficiency resulting from an assessment at the time the 8102
commissioner issues the assessment. 8103~~

~~(F) With respect to taxes levied under section 5707.03 of the Revised Code, if a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill but makes payment within ten calendar days of such date, the tax commissioner shall add a penalty equal to five per cent of the taxes due. If payment is not made within ten days of such date, the commissioner shall add a penalty equal to ten per cent of the taxes due. The commissioner shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. For each claim certified by the commissioner, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.~~

~~(G) With respect to taxes levied under section 5725.18 of the Revised Code, if~~ (E) If a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill issued by the treasurer of state, the treasurer of state shall add a penalty equal to five hundred dollars for each month the taxpayer fails to pay all taxes and interest due. The treasurer of state may add an additional penalty, not to exceed ten per cent of the taxes and interest due, if the taxpayer fails to demonstrate that the taxpayer made a good faith effort to pay all taxes and interest on or before the due date shown on the tax bill. The treasurer of state shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. The attorney general shall transmit a copy of each claim certified by the treasurer of state to the superintendent of insurance. For each claim certified by the treasurer of state, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.

Sec. 5727.25. (A) Except as provided in division (B) of 8135
this section, within forty-five days after the last day of 8136
March, June, September, and December, each natural gas company 8137
or combined company subject to the excise tax imposed by section 8138
5727.24 of the Revised Code shall file a return with the tax 8139
commissioner, in such form as the ~~tax~~-commissioner prescribes, 8140
and pay the full amount of the tax due on its taxable gross 8141
receipts for the preceding calendar quarter, ~~except that the~~ 8142
~~first payment of this tax shall be made on or before November~~ 8143
~~15, 2000, for the five-month period of May 1, 2000, to September~~ 8144
~~30, 2000.~~ All payments made under this division shall be made ~~by~~ 8145
~~electronic funds transfer~~ electronically in accordance with 8146
section 5727.311 of the Revised Code. 8147

(B) Any natural gas company or combined company subject to 8148
the excise tax imposed by this section that has an annual tax 8149
liability for the preceding calendar year ending on the thirty- 8150
first day of December of less than three hundred twenty-five 8151
thousand dollars may elect to file an annual return with the tax 8152
commissioner, in such form as the ~~tax~~-commissioner prescribes, 8153
for the next year. A company that elects to file an annual 8154
return for the calendar year shall file the return and remit the 8155
taxes due on its taxable gross receipts within forty-five days 8156
after the thirty-first day of December. ~~The first payment of the~~ 8157
~~tax under this division shall be made on or before February 14,~~ 8158
~~2001, for the period of May 1, 2000, to December 31, 2000.~~ The 8159
minimum tax for a natural gas company or combined company 8160
subject to this division shall be fifty dollars, and the company 8161
shall not be required to remit the tax due ~~by electronic funds~~ 8162
~~transfer~~ electronically. 8163

(C) A return required to be filed under division (A) or 8164
(B) of this section shall show the amount of tax due from the 8165

company for the period covered by the return and any other 8166
information as prescribed by the tax commissioner. A return 8167
shall be considered filed when received by the ~~tax~~ commissioner. 8168
The commissioner may extend the time for making and filing 8169
returns and paying the tax. 8170

(D) Any natural gas company or combined company that fails 8171
to file a return or pay the full amount of the tax due within 8172
the period prescribed under this section shall pay an additional 8173
charge of fifty dollars or ten per cent of the tax required to 8174
be paid for the reporting period, whichever is greater. If any 8175
tax due is not paid timely in accordance with this section, the 8176
company liable for the tax shall pay interest, calculated at the 8177
rate per annum prescribed by section 5703.47 of the Revised 8178
Code, from the date the tax payment was due to the date of 8179
payment or to the date an assessment was issued, whichever 8180
occurs first. The tax commissioner may collect any additional 8181
charge or interest imposed by this section by assessment in the 8182
manner provided in section 5727.26 of the Revised Code. The 8183
commissioner may abate all or a portion of the additional charge 8184
and may adopt rules governing such abatements. 8185

~~(E) The tax commissioner shall immediately forward to the~~ 8186
~~treasurer of state any amounts that the commissioner receives~~ 8187
~~under this section.~~ The taxes, additional charges, penalties, 8188
and interest collected under sections 5727.24 to 5727.29 of the 8189
Revised Code shall be credited in accordance with section 8190
5727.45 of the Revised Code. 8191

Sec. 5727.31. (A) Each public utility subject to the 8192
excise tax imposed by section 5727.30 of the Revised Code, 8193
annually, on or before the first day of August, shall file with 8194
the tax commissioner a statement in such form as the 8195

commissioner prescribes and shall pay any amount due. 8196

(B) (1) Annually, on or before the fifteenth day of October 8197
of the current year, each public utility whose estimated excise 8198
taxes for the current year as based upon the statement required 8199
to be filed in that year by division (A) of this section are one 8200
thousand dollars or more shall file with the commissioner a 8201
report, in such form as the commissioner prescribes, showing the 8202
amount of excise tax estimated to be charged or levied pursuant 8203
to law for the current year upon the basis of such annual 8204
statement, and shall remit a portion of the estimated excise 8205
taxes shown to be due by the report. The portion of the 8206
estimated excise taxes due at the time the report is filed shall 8207
be one-third of its total excise taxes estimated to be charged 8208
or levied for the current year based upon the annual statement 8209
filed under division (A) of this section. 8210

(2) Annually, on or before the first day of March and 8211
June, each public utility whose excise taxes as based upon its 8212
last preceding annual statement filed under division (A) of this 8213
section prior to the first day of January were one thousand 8214
dollars or more shall file with the commissioner a report, in 8215
such form as the commissioner prescribes, showing the amount of 8216
excise tax charged or levied pursuant to law upon the basis of 8217
such annual statement, and shall remit a portion of the excise 8218
taxes shown to be due by each such report. The portion of the 8219
excise taxes due at the time each such report is filed shall be 8220
one-third of its total excise taxes so charged or levied based 8221
upon such annual statement. 8222

(C) Any public utility subject to the excise taxes imposed 8223
by section 5727.30 of the Revised Code whose tax as certified 8224
under section 5727.38 of the Revised Code in a year equals or 8225

exceeds the amount specified for that year in section 5727.311 8226
of the Revised Code shall make the payments required under this 8227
section in the second ensuing and each succeeding year in the 8228
manner prescribed by section 5727.311 of the Revised Code, 8229
except as otherwise prescribed by that section. 8230

(D) (1) For purposes of this section, a report required to 8231
be filed under division (B) of this section is considered filed 8232
when it is received by the tax commissioner. 8233

(2) For purposes of this section and sections 5727.311 and 8234
5727.42 of the Revised Code, remittance of an excise tax 8235
required to be made under this section is considered to be made 8236
when the remittance is received by the ~~treasurer of state or tax~~ 8237
commissioner, or when credited to an account designated by the 8238
treasurer of state for the receipt of tax remittances. 8239

Sec. 5727.311. (A) Any public utility subject to an excise 8240
tax imposed by section 5727.30 of the Revised Code whose tax 8241
equals or exceeds fifty thousand dollars shall make each payment 8242
required under division (B) of section 5727.31 of the Revised 8243
Code for the second ensuing and each succeeding year ~~by~~ 8244
~~electronic funds transfer electronically~~ as prescribed by 8245
division (C) of this section. 8246

If the tax in each of two consecutive years is less than 8247
fifty thousand dollars, the public utility is relieved of the 8248
requirement to remit taxes ~~by electronic funds transfer~~ 8249
electronically for the year that next follows the second of the 8250
consecutive years in which the tax certified is less than fifty 8251
thousand dollars, and is relieved of that requirement for each 8252
succeeding year unless the tax in a subsequent year equals or 8253
exceeds fifty thousand dollars. 8254

(B) The tax commissioner shall notify each public utility 8255
required by this section or section 5727.25 of the Revised Code 8256
to remit taxes ~~by electronic funds transfer~~ electronically of 8257
the public utility's obligation to do so ~~and shall maintain an~~ 8258
~~updated list of those public utilities.~~ Failure by the tax- 8259
commissioner to notify a public utility subject to this section 8260
to remit taxes ~~by electronic funds transfer~~ electronically does 8261
not relieve the public utility of its obligation to remit taxes 8262
~~by electronic funds transfer~~ in that manner. 8263

(C) Public utilities required by this section or section 8264
5727.25 of the Revised Code to remit periodic payments ~~by~~ 8265
~~electronic funds transfer~~ electronically shall remit such 8266
payments ~~to the treasurer of state in the manner prescribed by~~ 8267
~~rules adopted by the treasurer of state under section 113.061 of~~ 8268
~~the Revised Code~~ in the manner prescribed by the tax 8269
commissioner. The electronic payment of public utility excise 8270
taxes ~~by electronic funds transfer~~ does not affect a public 8271
utility's obligation to file the annual statement and periodic 8272
reports in the manner and at the times prescribed by section 8273
5727.31 of the Revised Code. 8274

A public utility required by this section or section 8275
5727.25 of the Revised Code to remit taxes ~~by electronic funds~~ 8276
~~transfer~~ electronically may apply to the ~~tax~~ commissioner in the 8277
manner prescribed by the commissioner to be excused from that 8278
requirement. The commissioner may excuse the public utility from 8279
electronic remittance ~~by electronic funds transfer~~ for good 8280
cause shown for the period of time requested by the public 8281
utility or for a portion of that period. The commissioner shall 8282
notify the public utility of the commissioner's decision as soon 8283
as is practicable. 8284

(D) If a public utility required by this section or 8285
section 5727.25 of the Revised Code to remit taxes ~~by electronic~~ 8286
~~funds transfer electronically~~ remits those taxes by some means 8287
other than ~~by electronic funds transfer electronically~~ as 8288
prescribed by this section ~~and the rules adopted by the~~ 8289
~~treasurer of state~~, and the tax commissioner determines that the 8290
failure to remit taxes as required was not due to reasonable 8291
cause or was due to willful neglect, the commissioner may impose 8292
an additional charge on the public utility equal to five per 8293
cent of the amount of the taxes required to be paid ~~by~~ 8294
~~electronic funds transfer electronically~~, but not to exceed five 8295
thousand dollars. Any additional charge imposed under this 8296
section is in addition to any other penalty or charge imposed 8297
under this chapter, and shall be considered as revenue arising 8298
from excise taxes imposed by this chapter. 8299

No additional charge shall be assessed under this division 8300
against a public utility that has been notified of its 8301
obligation to remit taxes electronically under this section and 8302
that remits its first two tax payments after such notification 8303
by some other means ~~other than electronic funds transfer~~. The 8304
additional charge may be assessed upon the remittance of any 8305
subsequent tax payment that the public utility remits by some 8306
means other than ~~electronic funds transfer~~ electronically. 8307

Sec. 5727.42. (A) ~~The treasurer of state shall notify the~~ 8308
~~tax commissioner of any payment of the excise tax imposed by~~ 8309
~~section 5727.30 of the Revised Code.~~ The tax commissioner shall 8310
collect the excise tax imposed by section 5727.30 of the Revised 8311
Code and the taxpayer shall pay all taxes and any penalties 8312
thereon. Payments of the tax may be made by mail, in person, ~~by~~ 8313
~~electronic funds transfer electronically~~ if required to do so by 8314
section 5727.311 of the Revised Code, or by any other means 8315

authorized by the commissioner. The commissioner may adopt rules 8316
concerning the methods and timeliness of payment. 8317

(B) Each tax assessment issued pursuant to this section 8318
shall separately reflect the taxes and any penalty due, and any 8319
other information considered necessary. The commissioner shall 8320
mail the assessment to the taxpayer, and the mailing of it shall 8321
be prima-facie evidence of receipt thereof by the taxpayer. 8322

(C) The commissioner shall refund taxes levied and 8323
payments made for the tax imposed by section 5727.30 of the 8324
Revised Code as provided in this section, but no refund shall be 8325
made to a taxpayer having a delinquent claim certified pursuant 8326
to this section that remains unpaid. The commissioner may 8327
consult the attorney general regarding such claims. 8328

(D) After receiving any excise tax annual statement for 8329
the tax imposed by section 5727.30 of the Revised Code, the 8330
commissioner shall: 8331

(1) Ascertain the difference between the total taxes owed 8332
and the sum of all payments made for that year. 8333

(2) If the difference is a deficiency, the commissioner 8334
shall issue an assessment. 8335

(3) If the difference is an excess, the commissioner shall 8336
~~notify the director of budget and management and~~ issue a refund 8337
of that amount to the taxpayer. If the amount of the refund is 8338
less than that claimed by the taxpayer, the taxpayer, within 8339
sixty days of the issuance of the refund, may provide to the 8340
commissioner additional information to support the claim or may 8341
request a hearing. Upon receiving such information or request 8342
within that time, the commissioner shall follow the same 8343
procedures set forth in divisions (C) and (D) of section 5703.70 8344

of the Revised Code for the determination of refund 8345
applications. 8346

If the taxpayer has a deficiency for one tax year and an 8347
excess for another tax year, or any combination thereof for more 8348
than two years, the commissioner may determine the net result 8349
and, depending on such result, proceed to issue an assessment or 8350
certify a refund. 8351

(E) If a taxpayer fails to pay the amount of taxes 8352
required to be paid, or fails to make an estimated payment on or 8353
before the due date prescribed in division (B) of section 8354
5727.31 of the Revised Code, the commissioner shall impose a 8355
penalty in the amount of fifteen per cent of the unpaid amount, 8356
and the commissioner shall issue an assessment for the unpaid 8357
amount and penalty. Unless a timely petition for reassessment is 8358
filed under section 5727.47 of the Revised Code, the attorney 8359
general shall proceed to collect the delinquent taxes and 8360
penalties thereon in the manner prescribed by law and notify the 8361
commissioner of all collections. 8362

Sec. 5727.47. (A) Notice of each assessment certified or 8363
issued pursuant to section 5727.23 or 5727.38 of the Revised 8364
Code shall be mailed to the public utility, and its mailing 8365
shall be prima-facie evidence of its receipt by the public 8366
utility to which it is addressed. With the notice, the tax 8367
commissioner shall provide instructions on how to petition for 8368
reassessment and request a hearing on the petition. If a public 8369
utility objects to such an assessment, it may file with the 8370
commissioner, either personally or by certified mail, within 8371
sixty days after the mailing of the notice of assessment a 8372
written petition for reassessment signed by the utility's 8373
authorized agent having knowledge of the facts. The date the 8374

commissioner receives the petition shall be considered the date 8375
of filing. The petition shall indicate the utility's objections, 8376
but additional objections may be raised in writing if received 8377
by the commissioner prior to the date shown on the final 8378
determination. 8379

In the case of a petition seeking a reduction in taxable 8380
value filed with respect to an assessment certified under 8381
section 5727.23 of the Revised Code, the petitioner shall state 8382
in the petition the total amount of reduction in taxable value 8383
sought by the petitioner. If the petitioner objects to the 8384
percentage of true value at which taxable property is assessed 8385
by the commissioner, the petitioner shall state in the petition 8386
the total amount of reduction in taxable value sought both with 8387
and without regard to the objection pertaining to the percentage 8388
of true value at which its taxable property is assessed. If a 8389
petitioner objects to the commissioner's apportionment of the 8390
taxable value of the petitioner's taxable property, the 8391
petitioner shall distinctly state in the petition that the 8392
petitioner objects to the commissioner's apportionment, and, 8393
within forty-five days after filing the petition for 8394
reassessment, shall submit the petitioner's proposed 8395
apportionment of the taxable value of its taxable property among 8396
taxing districts. If a petitioner that objects to the 8397
commissioner's apportionment fails to state its objections to 8398
that apportionment in its petition for reassessment or fails to 8399
submit its proposed apportionment within forty-five days after 8400
filing the petition for reassessment, the commissioner shall 8401
dismiss the petitioner's objection to the commissioner's 8402
apportionment, and the taxable value of the petitioner's taxable 8403
property, subject to any adjustment to taxable value pursuant to 8404
the petition or appeal, shall be apportioned in the manner used 8405

by the commissioner in the preliminary or amended preliminary 8406
assessment certified under section 5727.23 of the Revised Code. 8407

If an additional objection seeking a reduction in taxable 8408
value in excess of the reduction stated in the original petition 8409
is properly and timely raised with respect to an assessment 8410
issued under section 5727.23 of the Revised Code, the petitioner 8411
shall state the total amount of the reduction in taxable value 8412
sought in the additional objection both with and without regard 8413
to any reduction in taxable value pertaining to the percentage 8414
of true value at which taxable property is assessed. If a 8415
petitioner fails to state the reduction in taxable value sought 8416
in the original petition or in additional objections properly 8417
raised after the petition is filed, the commissioner shall 8418
notify the petitioner of the failure ~~by certified mail~~ in the 8419
manner provided in section 5703.37 of the Revised Code. If the 8420
petitioner fails to notify the commissioner in writing of the 8421
reduction in taxable value sought in the petition or in an 8422
additional objection within thirty days after receiving the 8423
commissioner's notice, the commissioner shall dismiss the 8424
petition or the additional objection in which that reduction is 8425
sought. 8426

(B) (1) Subject to divisions (B) (2) and (3) of this 8427
section, a public utility filing a petition for reassessment 8428
regarding an assessment certified or issued under section 8429
5727.23 or 5727.38 of the Revised Code shall pay the tax with 8430
respect to the assessment objected to as required by law. The 8431
acceptance of any tax payment by the ~~treasurer of state,~~ tax 8432
commissioner, or any county treasurer shall not prejudice any 8433
claim for taxes on final determination by the commissioner or 8434
final decision by the board of tax appeals or any court. 8435

(2) If a public utility properly and timely files a petition for reassessment regarding an assessment certified under section 5727.23 of the Revised Code, the petitioner shall pay the tax as prescribed by divisions (B) (2) (a), (b), and (c) of this section:

(a) If the petitioner does not object to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the part of the tax otherwise due on the taxable value that the petitioner seeks to have reduced, subject to division (B) (2) (c) of this section.

(b) If the petitioner objects to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the tax otherwise due on the part of the taxable value apportioned to any taxing district that the petitioner objects to, subject to division (B) (2) (c) of this section. If, pursuant to division (A) of this section, the petitioner has, in a proper and timely manner, apportioned taxable value to a taxing district to which the commissioner did not apportion the petitioner's taxable value, the petitioner shall pay the tax due on the taxable value that the petitioner has apportioned to the taxing district, subject to division (B) (2) (c) of this section.

(c) If a petitioner objects to the percentage of true value at which taxable property is assessed by the commissioner, the petitioner shall pay the tax due on the basis of the percentage of true value at which the public utility's taxable property is assessed by the commissioner. In any case, the petitioner's payment of tax shall not be less than the amount of tax due based on the taxable value reflected on the last appeal

notice issued by the commissioner under division (C) of this 8466
section. Until the county auditor receives notification under 8467
division (E) of this section and proceeds under section 5727.471 8468
of the Revised Code to issue any refund that is found to be due, 8469
the county auditor shall not issue a refund for any increase in 8470
the reduction in taxable value that is sought by a petitioner 8471
later than forty-five days after the petitioner files the 8472
original petition as required under division (A) of this 8473
section. 8474

(3) Any part of the tax that, under division (B) (2) (a) or 8475
(b) of this section, is not paid shall be collected upon receipt 8476
of the notification as provided in section 5727.471 of the 8477
Revised Code with interest thereon computed in the same manner 8478
as interest is computed under division (E) of section 5715.19 of 8479
the Revised Code, subject to any correction of the assessment by 8480
the commissioner under division (E) of this section or the final 8481
judgment of the board of tax appeals or a court to which the 8482
board's final judgment is appealed. The penalty imposed under 8483
section 323.121 of the Revised Code shall apply only to the 8484
unpaid portion of the tax if the petitioner's tax payment is 8485
less than the amount of tax due based on the taxable value 8486
reflected on the last appeal notice issued by the commissioner 8487
under division (C) of this section. 8488

(C) Upon receipt of a properly filed petition for 8489
reassessment with respect to an assessment certified under 8490
section 5727.23 of the Revised Code, the tax commissioner shall 8491
notify the treasurer of state or the auditor of each county to 8492
which the assessment objected to has been certified. In the case 8493
of a petition with respect to an assessment certified under 8494
section 5727.23 of the Revised Code, the commissioner shall 8495
issue an appeal notice within thirty days after receiving the 8496

amount of the taxable value reduction and apportionment changes 8497
sought by the petitioner in the original petition or in any 8498
additional objections properly and timely raised by the 8499
petitioner. The appeal notice shall indicate the amount of the 8500
reduction in taxable value sought in the petition or in the 8501
additional objections and the extent to which the reduction in 8502
taxable value and any change in apportionment requested by the 8503
petitioner would affect the commissioner's apportionment of the 8504
taxable value among taxing districts in the county as shown in 8505
the assessment. If a petitioner is seeking a reduction in 8506
taxable value on the basis of a lower percentage of true value 8507
than the percentage at which the commissioner assessed the 8508
petitioner's taxable property, the appeal notice shall indicate 8509
the reduction in taxable value sought by the petitioner without 8510
regard to the reduction sought on the basis of the lower 8511
percentage and shall indicate that the petitioner is required to 8512
pay tax on the reduced taxable value determined without regard 8513
to the reduction sought on the basis of a lower percentage of 8514
true value, as provided under division (B) (2) (c) of this 8515
section. The appeal notice shall include a statement that the 8516
reduced taxable value and the apportionment indicated in the 8517
notice are not final and are subject to adjustment by the 8518
commissioner or by the board of tax appeals or a court on 8519
appeal. If the commissioner finds an error in the appeal notice, 8520
the commissioner may amend the notice, but the notice is only 8521
for informational and tax payment purposes; the notice is not 8522
subject to appeal by any person. The commissioner also shall 8523
mail a copy of the appeal notice to the petitioner. Upon the 8524
request of a taxing authority, the county auditor may disclose 8525
to the taxing authority the extent to which a reduction in 8526
taxable value sought by a petitioner would affect the 8527
apportionment of taxable value to the taxing district or 8528

districts under the taxing authority's jurisdiction, but such a 8529
disclosure does not constitute a notice required by law to be 8530
given for the purpose of section 5717.02 of the Revised Code. 8531

(D) If the petitioner requests a hearing on the petition, 8532
the tax commissioner shall assign a time and place for the 8533
hearing on the petition and notify the petitioner of such time 8534
and place, but the commissioner may continue the hearing from 8535
time to time as necessary. 8536

(E) The tax commissioner may make corrections to the 8537
assessment as the commissioner finds proper. The commissioner 8538
shall serve a copy of the commissioner's final determination on 8539
the petitioner in the manner provided in section 5703.37 of the 8540
Revised Code. The commissioner's decision in the matter shall be 8541
final, subject to appeal under section 5717.02 of the Revised 8542
Code. With respect to a final determination issued for an 8543
assessment certified under section 5727.23 of the Revised Code, 8544
the commissioner also shall transmit a copy of the final 8545
determination to the applicable county auditor. In the absence 8546
of any further appeal, or when a decision of the board of tax 8547
appeals or of any court to which the decision has been appealed 8548
becomes final, the commissioner shall notify the public utility 8549
and, as appropriate, shall proceed under section 5727.42 of the 8550
Revised Code, or notify the applicable county auditor, who shall 8551
proceed under section 5727.471 of the Revised Code. 8552

The notification made under this division is not subject 8553
to further appeal. 8554

(F) On appeal, no adjustment shall be made in the tax 8555
commissioner's assessment certified under section 5727.23 of the 8556
Revised Code that reduces the taxable value of a petitioner's 8557
taxable property by an amount that exceeds the reduction sought 8558

by the petitioner in its petition for reassessment or in any 8559
additional objections properly and timely raised after the 8560
petition is filed with the commissioner. 8561

Sec. 5727.53. The taxes, fees, and penalties provided by 8562
this chapter that are remitted to the ~~treasurer of state tax~~ 8563
commissioner may be recovered by an action brought in the name 8564
of the state in the court of common pleas of Franklin county, or 8565
of any county in which such public utility is doing business, or 8566
in which the line of any railroad company is located, and such 8567
court of common pleas shall have jurisdiction of the action 8568
regardless of the amount involved. The attorney general, on 8569
request of the tax commissioner, shall institute such action in 8570
the court of common pleas of Franklin county or of any of such 8571
counties the commissioner directs. Sums recovered in any such 8572
action shall be paid into the state treasury in the same manner 8573
as the tax. 8574

Sec. 5727.81. (A) For the purpose of raising revenue to 8575
fund the needs of this state and its local governments, an 8576
excise tax is hereby levied and imposed on an electric 8577
distribution company for all electricity distributed by such 8578
company at the following rates per kilowatt hour of electricity 8579
distributed in a thirty-day period by the company through a 8580
meter of an end user in this state: 8581

8582

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A	KILOWATT HOURS DISTRIBUTED	RATE PER
B	TO AN END USER	KILOWATT HOUR

C	For the first 2,000	\$.00465
D	For the next 2,001 to 15,000	\$.00419
E	For 15,001 and above	\$.00363

If no meter is used to measure the kilowatt hours of electricity distributed by the company, the rates shall apply to the estimated kilowatt hours of electricity distributed to an unmetered location in this state.

The electric distribution company shall base the monthly tax on the kilowatt hours of electricity distributed to an end user through the meter of the end user that is not measured for a thirty-day period by dividing the days in the measurement period into the total kilowatt hours measured during the measurement period to obtain a daily average usage. The tax shall be determined by obtaining the sum of divisions (A) (1), (2), and (3) of this section and multiplying that amount by the number of days in the measurement period:

(1) Multiplying \$0.00465 per kilowatt hour for the first sixty-seven kilowatt hours distributed using a daily average;

(2) Multiplying \$0.00419 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average;

(3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the tax commissioner in accordance with section 5727.82 of the Revised Code, unless required to remit each tax payment ~~by electronic funds transfer to the treasurer of state~~ electronically in

accordance with section 5727.83 of the Revised Code. 8607

Only the distribution of electricity through a meter of an 8608
end user in this state shall be used by the electric 8609
distribution company to compute the amount or estimated amount 8610
of tax due. In the event a meter is not actually read for a 8611
measurement period, the estimated kilowatt hours distributed by 8612
an electric distribution company to bill for its distribution 8613
charges shall be used. 8614

(B) Except as provided in division (C) of this section, 8615
each electric distribution company shall pay the tax imposed by 8616
this section in all of the following circumstances: 8617

(1) The electricity is distributed by the company through 8618
a meter of an end user in this state; 8619

(2) The company is distributing electricity through a 8620
meter located in another state, but the electricity is consumed 8621
in this state in the manner prescribed by the tax commissioner; 8622

(3) The company is distributing electricity in this state 8623
without the use of a meter, but the electricity is consumed in 8624
this state as estimated and in the manner prescribed by the tax 8625
commissioner. 8626

(C) (1) As used in division (C) of this section: 8627

(a) "Total price of electricity" means the aggregate value 8628
in money of anything paid or transferred, or promised to be paid 8629
or transferred, to obtain electricity or electric service, 8630
including but not limited to the value paid or promised to be 8631
paid for the transmission or distribution of electricity and for 8632
transition costs as described in Chapter 4928. of the Revised 8633
Code. 8634

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request by an applicant for registration as a self-assessing purchaser under this division. ~~For the meter reading period including July 1, 2008, through the meter reading period including December 31, 2010, such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and a percentage of the total price of all electricity distributed to that meter or location equal to three and one-half per cent. For the meter reading period including January 1, 2011, and thereafter, such~~ Such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00257 per kilowatt hour for the first five hundred

million kilowatt hours, and \$.001832 per kilowatt hour for each 8666
kilowatt hour in excess of five hundred million kilowatt hours, 8667
distributed to that meter or location during the registration 8668
year. 8669

A qualified end user that receives electricity through a 8670
meter of an end user in this state or through more than one 8671
meter at a single location in this state and that consumes, over 8672
the course of the previous calendar year, more than forty-five 8673
million kilowatt hours in other than its qualifying 8674
manufacturing process, may elect to self-assess the tax as 8675
allowed by this division with respect to the electricity used in 8676
other than its qualifying manufacturing process. 8677

Payment of the tax shall be made directly to the tax 8678
commissioner in accordance with divisions (A) (4) and (5) of 8679
section 5727.82 of the Revised Code, or ~~the treasurer of state~~ 8680
in accordance with section 5727.83 of the Revised Code. If the 8681
electric distribution company serving the self-assessing 8682
purchaser is a municipal electric utility and the purchaser is 8683
within the municipal corporation's corporate limits, payment 8684
shall be made to such municipal corporation's general fund and 8685
reports shall be filed in accordance with divisions (A) (4) and 8686
(5) of section 5727.82 of the Revised Code, except that 8687
"municipal corporation" shall be substituted for ~~"treasurer of~~ 8688
~~state" and "tax commissioner."~~ A self-assessing purchaser that 8689
pays the excise tax as provided in this division shall not be 8690
required to pay the tax to the electric distribution company 8691
from which its electricity is distributed. If a self-assessing 8692
purchaser's receipt of electricity is not subject to the tax as 8693
measured under this division, the tax on the receipt of such 8694
electricity shall be measured and paid as provided in division 8695
(A) of this section. 8696

(3) In the case of the acquisition of a package, unless 8697
the elements of the package are separately stated isolating the 8698
total price of electricity from the price of the remaining 8699
elements of the package, the tax imposed under this section 8700
applies to the entire price of the package. If the elements of 8701
the package are separately stated, the tax imposed under this 8702
section applies to the total price of the electricity. 8703

(4) Any electric supplier that sells electricity as part 8704
of a package shall separately state to the purchaser the total 8705
price of the electricity and, upon request by the tax 8706
commissioner, the total price of each of the other elements of 8707
the package. 8708

(5) The tax commissioner may adopt rules relating to the 8709
computation of the total price of electricity with respect to 8710
self-assessing purchasers, which may include rules to establish 8711
the total price of electricity purchased as part of a package. 8712

(6) An annual application for registration as a self- 8713
assessing purchaser shall be made for each qualifying meter or 8714
location on a form prescribed by the tax commissioner. The 8715
registration year begins on the first day of May and ends on the 8716
following thirtieth day of April. Persons may apply after the 8717
first day of May for the remainder of the registration year. In 8718
the case of an applicant applying on the basis of an estimated 8719
consumption of forty-five million kilowatt hours over the course 8720
of the succeeding twelve months, the applicant shall provide 8721
such information as the tax commissioner considers to be 8722
necessary to estimate such consumption. At the time of making 8723
the application and by the first day of May of each year, a 8724
self-assessing purchaser shall pay a fee of five hundred dollars 8725
to the tax commissioner, ~~or to the treasurer of state as~~ 8726

~~provided in section 5727.83 of the Revised Code,~~ for each 8727
qualifying meter or location. The tax commissioner shall 8728
immediately pay to the treasurer of state all amounts that the 8729
tax commissioner receives under this section. The treasurer of 8730
state shall deposit such amounts into the kilowatt hour excise 8731
tax administration fund, which is hereby created in the state 8732
treasury. Money in the fund shall be used to defray the tax 8733
commissioner's cost in administering the tax owed under section 8734
5727.81 of the Revised Code by self-assessing purchasers. After 8735
the application is approved by the tax commissioner, the 8736
registration shall remain in effect for the current registration 8737
year, or until canceled by the registrant upon written 8738
notification to the commissioner of the election to pay the tax 8739
in accordance with division (A) of this section, or until 8740
canceled by the tax commissioner for not paying the tax or fee 8741
under division (C) of this section or for not meeting the 8742
qualifications in division (C)(2) of this section. The tax 8743
commissioner shall give written notice to the electric 8744
distribution company from which electricity is delivered to a 8745
self-assessing purchaser of the purchaser's self-assessing 8746
status, and the electric distribution company is relieved of the 8747
obligation to pay the tax imposed by division (A) of this 8748
section for electricity distributed to that self-assessing 8749
purchaser until it is notified by the tax commissioner that the 8750
self-assessing purchaser's registration is canceled. Within 8751
fifteen days of notification of the canceled registration, the 8752
electric distribution company shall be responsible for payment 8753
of the tax imposed by division (A) of this section on 8754
electricity distributed to a purchaser that is no longer 8755
registered as a self-assessing purchaser. A self-assessing 8756
purchaser with a canceled registration must file a report and 8757
remit the tax imposed by division (A) of this section on all 8758

electricity it receives for any measurement period prior to the 8759
tax being reported and paid by the electric distribution 8760
company. A self-assessing purchaser whose registration is 8761
canceled by the tax commissioner is not eligible to register as 8762
a self-assessing purchaser for two years after the registration 8763
is canceled. 8764

(7) If the tax commissioner cancels the self-assessing 8765
registration of a purchaser registered on the basis of its 8766
estimated consumption because the purchaser does not consume at 8767
least forty-five million kilowatt hours of electricity over the 8768
course of the twelve-month period for which the estimate was 8769
made, the tax commissioner shall assess and collect from the 8770
purchaser the difference between (a) the amount of tax that 8771
would have been payable under division (A) of this section on 8772
the electricity distributed to the purchaser during that period 8773
and (b) the amount of tax paid by the purchaser on such 8774
electricity pursuant to division (C) (2) of this section. The 8775
assessment shall be paid within sixty days after the tax 8776
commissioner issues it, regardless of whether the purchaser 8777
files a petition for reassessment under section 5727.89 of the 8778
Revised Code covering that period. If the purchaser does not pay 8779
the assessment within the time prescribed, the amount assessed 8780
is subject to the additional charge and the interest prescribed 8781
by divisions (B) and (C) of section 5727.82 of the Revised Code, 8782
and is subject to assessment under section 5727.89 of the 8783
Revised Code. If the purchaser is a qualified end user, division 8784
(C) (7) of this section applies only to electricity it consumes 8785
in other than its qualifying manufacturing process. 8786

(D) The tax imposed by this section does not apply to: 8787

(1) The distribution or obtaining of any kilowatt hours of 8788

electricity to or by any of the following:	8789
(a) The federal government;	8790
(b) An end user located at a federal facility that uses electricity for the enrichment of uranium;	8791 8792
(c) A qualified regeneration meter;	8793
(d) An end user for any day the end user is a qualified end user;	8794 8795
(e) An end user if the electricity is generated by an electric generation facility that is primarily dedicated to providing electricity to the electric-consuming facilities of the end user, that is sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection, that is physically interconnected and integrated with the electric- consuming facilities of the end user, and that is located on the same property on which the end user's electric-consuming facilities are situated or on property that is contiguous to the property on which the end user's electric-consuming facilities are situated.	8796 8797 8798 8799 8800 8801 8802 8803 8804 8805 8806 8807
(2) Kilowatt hours of electricity generated by a self- generator if the electric generating facility is sized so as not to exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection.	8808 8809 8810 8811 8812
The exemption under division (D) (1) (d) of this section for a qualified end user only applies to the manufacturing location where the qualified end user uses electricity in a chlor-alkali manufacturing process or where the qualified end user uses more than three million kilowatt hours per day in an electrochemical	8813 8814 8815 8816 8817

manufacturing process. As used in division (D) of this section, 8818
"customer-generator" and "self-generator" have the same meanings 8819
as in section 4928.01 of the Revised Code. 8820

(E) All revenue arising from the tax imposed by this 8821
section shall be credited to the general revenue fund except as 8822
provided by division (C) of this section and section 5727.82 of 8823
the Revised Code. 8824

Sec. 5727.811. (A) For the purpose of raising revenue to 8825
fund the needs of this state and its local governments, an 8826
excise tax is hereby levied on every natural gas distribution 8827
company for all natural gas volumes billed by, or on behalf of, 8828
the company ~~beginning with the measurement period that includes~~ 8829
~~July 1, 2001~~. Except as provided in divisions (C) or (D) of this 8830
section, the tax shall be levied at the following rates per MCF 8831
of natural gas distributed by the company through a meter of an 8832
end user in this state: 8833

8834

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A	MCF DISTRIBUTED TO AN END USER	RATE PER MCF
B	For the first 100 MCF per month	\$.1593
C	For the next 101 to 2000 MCF per month	\$.0877
D	For 2001 and above MCF per month	\$.0411

If no meter is used to measure the MCF of natural gas 8835
distributed by the company, the rates shall apply to the 8836
estimated MCF of natural gas distributed to an unmetered 8837

location in this state. 8838

(B) A natural gas distribution company shall base the tax 8839
on the MCF of natural gas distributed to an end user through the 8840
meter of the end user in this state that is estimated to be 8841
consumed by the end user as reflected on the end user's customer 8842
statement from the natural gas distribution company. ~~Until~~ 8843
~~January 1, 2003, the natural gas distribution company shall pay~~ 8844
~~the tax levied by this section to the treasurer of state in~~ 8845
~~accordance with section 5727.82 of the Revised Code. Beginning~~ 8846
~~January 1, 2003, the~~ The natural gas distribution company shall 8847
pay the tax levied by this section to the tax commissioner in 8848
accordance with section 5727.82 of the Revised Code unless 8849
required to remit payment ~~to the treasurer of state in~~ 8850
accordance with section 5727.83 of the Revised Code. 8851

(C) A natural gas distribution company with seventy 8852
thousand customers or less may elect to apply the rates 8853
specified in division (A) of this section to the aggregate of 8854
the natural gas distributed by the company through the meter of 8855
all its customers in this state, and upon such election, this 8856
method shall be used to determine the amount of tax to be paid 8857
by such company. 8858

(D) A natural gas distribution company shall pay the tax 8859
imposed by this section at the rate of \$.02 per MCF of natural 8860
gas distributed by the company through the meter of a flex 8861
customer. The natural gas distribution company correspondingly 8862
shall reduce the per MCF rate that it charges the flex customer 8863
for natural gas distribution services by \$.02 per MCF of natural 8864
gas distributed to the flex customer. 8865

(E) Except as provided in division (F) of this section, 8866
each natural gas distribution company shall pay the tax imposed 8867

by this section in all of the following circumstances: 8868

(1) The natural gas is distributed by the company through 8869
a meter of an end user in this state; 8870

(2) The natural gas distribution company is distributing 8871
natural gas through a meter located in another state, but the 8872
natural gas is consumed in this state in the manner prescribed 8873
by the tax commissioner; 8874

(3) The natural gas distribution company is distributing 8875
natural gas in this state without the use of a meter, but the 8876
natural gas is consumed in this state as estimated and in the 8877
manner prescribed by the tax commissioner. 8878

(F) The tax levied by this section does not apply to the 8879
distribution of natural gas to the federal government, or 8880
natural gas produced by an end user in this state that is 8881
consumed by that end user or its affiliates and is not 8882
distributed through the facilities of a natural gas company. 8883

(G) All revenue arising from the tax imposed by this 8884
section shall be credited to the general revenue fund. 8885

Sec. 5727.82. (A) (1) Except as provided in divisions (A) 8886
(3) and (D) of this section, by the twentieth day of each month, 8887
each electric distribution company required to pay the tax 8888
imposed by section 5727.81 of the Revised Code shall file with 8889
the tax commissioner a return as prescribed by the tax 8890
commissioner and shall make payment of the full amount of tax 8891
due for the preceding month. ~~The first payment of this tax shall~~ 8892
~~be made on or before June 20, 2001.~~ The electric distribution 8893
company shall make payment to the tax commissioner unless 8894
required to remit ~~each tax the payment by electronic funds~~ 8895
~~transfer to the treasurer of state electronically~~ as provided in 8896

section 5727.83 of the Revised Code. 8897

(2) By the twentieth day of May, August, November, and 8898
February, each natural gas distribution company required to pay 8899
the tax imposed by section 5727.811 of the Revised Code shall 8900
file with the tax commissioner a return as prescribed by the tax 8901
commissioner and shall make payment to the tax commissioner, ~~or~~ 8902
~~to the treasurer of state as provided in section 5727.83 of the~~ 8903
~~Revised Code,~~ of the full amount of tax due for the preceding 8904
quarter. ~~The first payment of this tax shall be made on or~~ 8905
~~before November 20, 2001, for the quarter ending September 30,~~ 8906
~~2001.~~ 8907

(3) If the electric distribution company required to pay 8908
the tax imposed by section 5727.81 of the Revised Code is a 8909
municipal electric utility, it may retain in its general fund 8910
that portion of the tax on the kilowatt hours distributed to end 8911
users located within the boundaries of the municipal 8912
corporation. However, the municipal electric utility shall make 8913
payment in accordance with division (A)(1) of this section of 8914
the tax due on the kilowatt hours distributed to end users 8915
located outside the boundaries of the municipal corporation. 8916

(4) By the twentieth day of each month, each self- 8917
assessing purchaser that under division (C) of section 5727.81 8918
of the Revised Code pays directly to the tax commissioner ~~or the~~ 8919
~~treasurer of state~~ the tax imposed by section 5727.81 of the 8920
Revised Code shall file with the tax commissioner a return as 8921
prescribed by the tax commissioner and shall make payment of the 8922
full amount of the tax due for the preceding month. 8923

(5) As prescribed by the tax commissioner, a return shall 8924
be signed by the company or self-assessing purchaser required to 8925
file it, or an authorized employee, officer, or agent of the 8926

company or purchaser. The return shall be deemed filed when 8927
received by the tax commissioner. 8928

(B) Any natural gas distribution company, electric 8929
distribution company, or self-assessing purchaser required by 8930
this section to file a return who fails to file it and pay the 8931
tax within the period prescribed shall pay an additional charge 8932
of fifty dollars or ten per cent of the tax required to be paid 8933
for the reporting period, whichever is greater. The tax 8934
commissioner may collect the additional charge by assessment 8935
pursuant to section 5727.89 of the Revised Code. The 8936
commissioner may abate all or a portion of the additional charge 8937
and may adopt rules governing such abatements. 8938

(C) If any tax due is not paid timely in accordance with 8939
this section, the natural gas distribution company, electric 8940
distribution company, or self-assessing purchaser liable for the 8941
tax shall pay interest, calculated at the rate per annum 8942
prescribed by section 5703.47 of the Revised Code, from the date 8943
the tax payment was due to the date of payment or to the date an 8944
assessment is issued, whichever occurs first. Interest shall be 8945
paid in the same manner as the tax, and the commissioner may 8946
collect the interest by assessment pursuant to section 5727.89 8947
of the Revised Code. 8948

(D) Not later than the tenth day of each month, a 8949
qualified end user not making the election to self-assess under 8950
division (C) of section 5727.81 of the Revised Code shall report 8951
in writing to the electric distribution company that distributes 8952
electricity to the end user the kilowatt hours that were 8953
consumed as a qualified end user in a qualifying manufacturing 8954
process for the prior month and the number of days, if any, on 8955
which the end user was not a qualified end user. For each 8956

calendar day during that month, a qualified end user shall 8957
report the kilowatt hours that were not used in a qualifying 8958
manufacturing process. For each calendar day the end user was 8959
not a qualified end user, the end user shall report in writing 8960
to the electric distribution company the total number of 8961
kilowatt hours used on that day, and the electric distribution 8962
company shall pay the tax imposed under section 5727.81 of the 8963
Revised Code on each kilowatt hour that was not distributed to a 8964
qualified end user in a qualifying manufacturing process. The 8965
electric distribution company may rely in good faith on a 8966
qualified end user's report filed under this division. If it is 8967
determined that the end user was not a qualified end user for 8968
any calendar day or the quantity of electricity used by the 8969
qualified end user in a qualifying manufacturing process was 8970
overstated, the tax commissioner shall assess and collect any 8971
tax imposed under section 5727.81 of the Revised Code directly 8972
from the qualified end user. As requested by the commissioner, 8973
each end user reporting to an electric distribution company that 8974
it is a qualified end user shall provide documentation to the 8975
commissioner that establishes the volume of electricity consumed 8976
daily by the qualified end user and the total number of kilowatt 8977
hours consumed in a qualifying manufacturing process. 8978

~~(E) The tax commissioner shall immediately pay to the 8979
treasurer of state all amounts that the tax commissioner 8980
receives under this section. The treasurer of state shall credit 8981
such amounts in accordance with this chapter. 8982~~

Sec. 5727.83. (A) A natural gas distribution company, an 8983
electric distribution company, or a self-assessing purchaser 8984
shall remit each tax payment ~~by electronic funds transfer~~ 8985
electronically as prescribed by divisions (B) and (C) of this 8986
section. 8987

The tax commissioner shall notify each natural gas 8988
distribution company, electric distribution company, and self- 8989
assessing purchaser of the obligation to remit taxes ~~by~~ 8990
~~electronic funds transfer, shall maintain an updated list of~~ 8991
~~those companies and purchasers, and shall timely certify to the~~ 8992
~~treasurer of state the list and any additions thereto or~~ 8993
~~deletions therefrom~~electronically by using the Ohio business 8994
gateway, as defined in section 718.01 of the Revised Code, or 8995
another means of electronic payment. Failure by the tax- 8996
commissioner to notify a company or self-assessing purchaser 8997
subject to this section to remit taxes ~~by electronic funds~~ 8998
~~transfer~~electronically does not relieve the company or self- 8999
assessing purchaser of its obligation to remit taxes in that 9000
manner. 9001

(B) A natural gas distribution company, an electric 9002
distribution company, or a self-assessing purchaser required by 9003
this section to remit payments ~~by electronic funds transfer~~ 9004
electronically shall remit such payments ~~to the treasurer of~~ 9005
~~state in the manner prescribed by rules adopted by the treasurer~~ 9006
~~of state under section 113.061 of the Revised Code, and on or~~ 9007
before the dates specified under section 5727.82 of the Revised 9008
Code. The payment of taxes ~~by electronic funds transfer~~ 9009
electronically does not affect a company's or self-assessing 9010
purchaser's obligation to file a return as required under 9011
section 5727.82 of the Revised Code. 9012

(C) A natural gas distribution company, an electric 9013
distribution company, or a self-assessing purchaser required by 9014
this section to remit taxes ~~by electronic funds transfer~~ 9015
electronically may apply to the ~~treasurer of state tax~~ 9016
commissioner in the manner prescribed by the ~~treasurer of state~~ 9017
commissioner to be excused from that requirement. The ~~treasurer~~ 9018

~~of state commissioner~~ may excuse the company or self-assessing purchaser from electronic remittance ~~by electronic funds transfer~~ for good cause shown for the period of time requested by the company or self-assessing purchaser or for a portion of that period. The ~~treasurer of state~~ commissioner shall notify the ~~tax commissioner and the~~ company or self-assessing purchaser of the ~~treasurer of state's~~ commissioner's decision as soon as is practicable.

(D) If a natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit taxes ~~by electronic funds transfer~~ electronically remits those taxes by some means other than ~~by electronic funds transfer~~ electronically as prescribed by this section ~~and the rules adopted by the treasurer of state,~~ and the ~~treasurer of state~~ tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the ~~treasurer of state~~ shall notify the ~~tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that~~ tax commissioner determination. The ~~tax commissioner~~ may collect an additional charge by assessment in the manner prescribed by section 5727.89 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid ~~by electronic funds transfer~~ electronically, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from the tax imposed under this chapter. The ~~tax~~ commissioner may abate all or a portion of such a charge and may adopt rules governing such abatements.

No additional charge shall be assessed under this division

against a natural gas distribution company, an electric 9050
distribution company, or a self-assessing purchaser that has 9051
been notified of its obligation to remit taxes electronically 9052
under this section and that remits its first two tax payments 9053
after such notification by some other means ~~other than~~ 9054
~~electronic funds transfer~~. The additional charge may be assessed 9055
upon the remittance of any subsequent tax payment that the 9056
company or purchaser remits by some means other than ~~electronic~~ 9057
~~funds transfer~~electronically. 9058

Sec. 5733.022. (A) Subject to division (C) of this 9059
section, if a taxpayer's total liability for taxes imposed by 9060
section 5733.06 of the Revised Code, after reduction for all 9061
nonrefundable credits allowed the taxpayer, ~~for tax year 1992 or~~ 9062
~~1993 exceeds one hundred thousand dollars, the taxpayer shall~~ 9063
~~remit each tax payment for tax year 1994 to the treasurer of~~ 9064
~~state by electronic funds transfer as prescribed by divisions~~ 9065
~~(B) and (C) of this section. Subject to division (C) of this~~ 9066
~~section, if a taxpayer's total liability for taxes, after~~ 9067
~~reduction for all nonrefundable credits allowed the taxpayer,~~ 9068
~~exceeds one hundred thousand dollars for tax year 1993, the~~ 9069
~~taxpayer shall remit each tax payment for tax year 1995 by~~ 9070
~~electronic funds transfer as prescribed by divisions (B) and (C)~~ 9071
~~of this section. If a taxpayer's total liability for taxes,~~ 9072
~~after reduction for all nonrefundable credits allowed the~~ 9073
~~taxpayer, exceeds seventy-five thousand dollars for tax year~~ 9074
~~1994, the taxpayer shall remit each tax payment for tax year~~ 9075
~~1996 by electronic funds transfer as prescribed by divisions (B)~~ 9076
~~and (C) of this section. For tax year 1997 and any succeeding~~ 9077
~~tax year, if a taxpayer's total liability for taxes, after~~ 9078
~~reduction for all nonrefundable credits allowed the taxpayer,~~ 9079
exceeds fifty thousand dollars ~~for the second preceding tax-~~ 9080

year, the taxpayer shall remit each tax payment for the tax year 9081
~~by electronic funds transfer electronically~~ as prescribed by 9082
divisions (B) and (C) of this section. 9083

The tax commissioner shall notify each taxpayer required 9084
to remit taxes ~~by electronic funds transfer electronically~~ of 9085
the taxpayer's obligation to do so, ~~shall maintain an updated~~ 9086
~~list of those taxpayers, and shall provide the list and any~~ 9087
~~additions thereto or deletions therefrom to the treasurer of~~ 9088
~~state.~~ Failure by the ~~tax~~ commissioner to notify a taxpayer 9089
subject to this section to remit taxes ~~by electronic funds~~ 9090
~~transfer electronically~~ does not relieve the taxpayer of its 9091
obligation to remit taxes ~~by electronic funds transfer~~ in that 9092
manner. 9093

(B) Taxpayers required by this section to remit payments 9094
~~by electronic funds transfer electronically~~ shall remit such 9095
payments ~~to the treasurer of state~~ in the manner prescribed by 9096
rules adopted by the treasurer under section 113.061 of the 9097
Revised Code the tax commissioner. 9098

Except as otherwise provided in this paragraph, the 9099
electronic payment of taxes ~~by electronic funds transfer~~ does 9100
not affect a taxpayer's obligation to file the annual 9101
corporation report or the declaration of estimated tax report as 9102
required under sections 5733.02 and 5733.021 of the Revised 9103
Code. ~~If the taxpayer remits estimated tax payments in a manner,~~ 9104
~~designated by rule of the treasurer of state, that permits the~~ 9105
~~inclusion of all information necessary for the treasurer of~~ 9106
~~state to process the tax payment, the taxpayer need not file the~~ 9107
~~declaration of estimated tax report as required by section~~ 9108
~~5733.021 of the Revised Code.~~ 9109

(C) If two or more taxpayers have elected or are required 9110

to file a combined report under section 5733.052 of the Revised Code, the tax liability of those taxpayers for purposes of division (A) of this section is the aggregate tax liability of those taxpayers after reduction for nonrefundable credits allowed the taxpayers.

(D) A taxpayer required by this section to remit taxes ~~by electronic funds transfer~~ electronically may apply to the ~~treasurer of state~~ tax commissioner in the manner prescribed by the ~~treasurer~~ commissioner to be excused from that requirement. The ~~treasurer of state~~ commissioner may excuse the taxpayer from electronic remittance ~~by electronic funds transfer~~ for good cause shown for the period of time requested by the taxpayer or for a portion of that period. The ~~treasurer~~ commissioner shall notify the ~~tax commissioner and the taxpayer~~ of the ~~treasurer's~~ commissioner's decision as soon as is practicable.

(E) If a taxpayer required by this section to remit taxes ~~by electronic funds transfer~~ electronically remits those taxes by some means other than ~~by electronic funds transfer~~ electronically as prescribed by this section ~~and the rules adopted by the treasurer of state,~~ and the ~~treasurer~~ tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the ~~treasurer~~ shall notify the ~~tax commissioner~~ of the failure to remit ~~by electronic funds transfer~~ and shall provide the ~~commissioner~~ with any information used in making that determination. The ~~tax~~ commissioner may collect an additional charge by assessment in the manner prescribed by section 5733.11 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes or estimated tax payments required to be paid ~~by~~ electronically, but shall not exceed five thousand dollars. Any additional charge assessed under this

section is in addition to any other penalty or charge imposed 9142
under this chapter, and shall be considered as revenue arising 9143
from the taxes imposed under this chapter. The ~~tax~~ commissioner 9144
may remit all or a portion of such a charge and may adopt rules 9145
governing such remission. 9146

No additional charge shall be assessed under this division 9147
against a taxpayer that has been notified of its obligation to 9148
remit taxes electronically under this section and that remits 9149
its first two tax payments after such notification by some other 9150
~~means other than electronic funds transfer~~. The additional 9151
charge may be assessed upon the remittance of any subsequent tax 9152
payment that the taxpayer remits by some means other than 9153
~~electronic funds transfer~~electronically. 9154

Sec. 5735.03. Except as provided in division (C) (2) of 9155
section 5735.02 of the Revised Code, every motor fuel dealer 9156
shall file with the tax commissioner a surety bond of not less 9157
than five thousand dollars, but may be required by the tax 9158
commissioner to submit a surety bond equal to three months' 9159
average tax liability, on a form approved by and with a surety 9160
satisfactory to the commissioner, upon which the motor fuel 9161
dealer shall be the principal obligor and the state shall be the 9162
obligee, conditioned upon the prompt filing of true reports and 9163
the payment by the motor fuel dealer to the ~~treasurer of state~~ 9164
commissioner of all motor fuel excise taxes levied by the state, 9165
provided that after notice is received from the state by the 9166
surety of the delinquency of any taxes, if the surety pays the 9167
taxes within thirty days after the receipt of the notice no 9168
penalties or interest shall be charged against the surety. If 9169
the surety does not pay the taxes within thirty days, but does 9170
pay within ninety days from the date of the receipt of notice 9171
from the state by the surety, no penalty shall be assessed 9172

against the surety but the surety shall pay interest at the rate 9173
of six per cent per annum on the unpaid taxes from the date the 9174
taxes are due and payable. If the surety does not pay within 9175
ninety days then the surety shall be liable for interest and 9176
penalties, and the tax commissioner may cancel all bonds issued 9177
by the surety. 9178

The commissioner may increase or reduce the amount of the 9179
bond required to be filed by any licensed motor fuel dealer. If 9180
the commissioner finds that it is necessary to increase the bond 9181
to assure payment of the tax, the bond may be increased to an 9182
amount equal to three months/average liability or fifty thousand 9183
dollars, whichever is greater. 9184

If liability upon the bond thus filed by the motor fuel 9185
dealer with the commissioner is discharged or reduced, whether 9186
by judgment rendered, payment made, or otherwise, or if, in the 9187
opinion of the commissioner any surety on the bond theretofore 9188
given has become unsatisfactory or unacceptable, the 9189
commissioner may require the motor fuel dealer to file a new 9190
bond with satisfactory sureties in the same amount, and if a new 9191
bond is not filed the commissioner shall forthwith cancel the 9192
license of the motor fuel dealer. If a new bond is furnished by 9193
the motor fuel dealer, the commissioner shall cancel and 9194
surrender the bond of the motor fuel dealer for which the new 9195
bond is substituted. 9196

A surety on a bond furnished by a motor fuel dealer shall 9197
be released from all liability to the state accruing on the bond 9198
after the expiration of sixty days from the date upon which the 9199
surety lodges with the commissioner a written request to be 9200
released. The request shall not operate to release the surety 9201
from any liability already accrued, or which accrues before the 9202

expiration of the sixty-day period. The commissioner shall 9203
promptly on receipt of notice of the request notify the motor 9204
fuel dealer who furnished the bond and, unless the motor fuel 9205
dealer on or before the expiration of the sixty-day period files 9206
with the commissioner a new bond with a surety satisfactory to 9207
the commissioner in the amount and form provided in this 9208
section, the commissioner shall forthwith cancel the license of 9209
the motor fuel dealer. If the new bond is furnished by said 9210
motor fuel dealer, the commissioner shall cancel and surrender 9211
the bond of the motor fuel dealer for which the new bond is 9212
substituted. 9213

The commissioner, in lieu of any surety bond required by 9214
this section, may accept a deposit by a motor fuel dealer of 9215
cash. Any cash thus accepted shall be deposited with the 9216
~~treasurer of state~~ commissioner to be held by the ~~treasurer of~~ 9217
~~state, in the same manner as other cash required to be deposited~~ 9218
~~with the treasurer of state under the laws of the state,~~ for the 9219
account of such motor fuel dealer and subject to any lawful 9220
claim of the state for any excise tax upon motor fuel, and 9221
penalties and interest thereon levied by the laws of this state. 9222
The state shall have a lien upon cash thus deposited for the 9223
amount of any motor fuel excise taxes and penalty and interest 9224
due to the state from the motor fuel dealer in whose behalf they 9225
were deposited. The amount of cash to be thus accepted shall in 9226
all respects be determined in the same manner as provided in 9227
this section for the amount of surety bonds. Any cash deposited 9228
shall be subject to levy upon execution to satisfy any judgment 9229
secured in any action by the state to recover any motor fuel 9230
excise taxes, and penalties and interest found to be due to the 9231
state from such motor fuel dealer. The cash shall be released by 9232
the ~~treasurer of state~~ commissioner upon ~~certificate of the~~ 9233

~~commissioner a determination~~ that the license of the motor fuel 9234
dealer in whose behalf they have been deposited has been 9235
canceled or that other security has been accepted in lieu 9236
thereof, and that the state asserts no claim thereto. 9237

Sec. 5735.062. (A) If the tax commissioner so requires, 9238
the dealer shall remit each monthly tax payment electronically 9239
as prescribed by division (B) of this section. 9240

The commissioner shall notify each dealer required to 9241
remit taxes electronically of the dealer's obligation to do so. 9242
Failure by the commissioner to notify a dealer subject to this 9243
section to remit taxes electronically does not relieve the 9244
dealer of its obligation to remit taxes electronically. 9245

(B) Dealers required by division (A) of this section to 9246
remit payments electronically shall remit such payments ~~to the~~ 9247
~~treasurer of state in the manner prescribed by rules adopted by~~ 9248
~~the treasurer under section 113.061 of the Revised Code or~~ 9249
through the ~~department of taxation's web site~~Ohio business 9250
gateway, as defined in section 718.01 of the Revised Code, or in 9251
another manner as prescribed by the commissioner. Required 9252
payments shall be remitted on or before the dates specified 9253
under section 5735.06 of the Revised Code. The payment of taxes 9254
electronically does not affect a dealer's obligation to file the 9255
monthly return as required under section 5735.06 of the Revised 9256
Code. 9257

A dealer required by this section to remit taxes 9258
electronically may apply to the commissioner to be excused from 9259
that requirement. The commissioner may excuse the dealer from 9260
the electronic remittance requirement for good cause shown for 9261
the period of time requested by the dealer or for a portion of 9262
that period. 9263

(C) If a dealer required by this section to remit taxes 9264
electronically fails to do so, the commissioner may impose a 9265
penalty on the dealer not to exceed one of the following: 9266

(1) For the first return period the dealer fails to remit 9267
taxes electronically, the greater of twenty-five dollars or five 9268
per cent of the amount of the payment required to be remitted; 9269

(2) For the second or any subsequent return period the 9270
dealer fails to remit taxes electronically, the greater of fifty 9271
dollars or ten per cent of the amount of the payment required to 9272
be remitted. 9273

The penalty imposed under division (C) of this section is 9274
in addition to any other penalty imposed under this chapter and 9275
shall be considered as revenue arising from the taxes imposed 9276
under this chapter. A penalty may be collected by assessment in 9277
the manner prescribed by section 5735.12 of the Revised Code. 9278
The commissioner may abate all or a portion of a penalty. 9279

(D) The commissioner may adopt rules necessary to 9280
administer this section. 9281

Sec. 5739.031. (A) Upon application, the tax commissioner 9282
may issue a direct payment permit that authorizes a consumer to 9283
pay the sales tax levied by or pursuant to section 5739.02, 9284
5739.021, 5739.023, or 5739.026 of the Revised Code or the use 9285
tax levied by or pursuant to section 5741.02, 5741.021, 9286
5741.022, or 5741.023 of the Revised Code directly to the state 9287
and waives the collection of the tax by the vendor or seller if 9288
payment directly to the state would improve compliance and 9289
increase the efficiency of the administration of the tax. The 9290
commissioner may adopt rules establishing the criteria for the 9291
issuance of such permits. 9292

(B) Each permit holder, on or before the twenty-third day 9293
of each month, shall make and file with the ~~treasurer of state~~ 9294
tax commissioner a return for the preceding month in such form 9295
as is prescribed by the ~~tax~~ commissioner and shall pay the tax 9296
shown on the return to be due. The return shall show the sum of 9297
the prices of taxable merchandise used and taxable services 9298
received, the amount of tax due from the permit holder, and such 9299
other information as the commissioner deems necessary. The 9300
commissioner, upon written request by the permit holder, may 9301
extend the time for making and filing returns and paying the 9302
tax. If the commissioner determines that a permit holder's tax 9303
liability is not such as to merit monthly filing, the 9304
commissioner may authorize the permit holder to file returns and 9305
pay the tax at less frequent intervals. ~~The treasurer of state~~ 9306
~~shall show on the return the date it was filed and the amount of~~ 9307
~~the payment remitted to the treasurer. Thereafter, the treasurer~~ 9308
~~immediately shall transmit all returns filed under this section~~ 9309
~~to the tax commissioner.~~ 9310

Any permit holder required to file a return and pay the 9311
tax under this section whose total payment for any calendar year 9312
equals or exceeds the amount shown in section 5739.032 of the 9313
Revised Code shall make each payment required by this section in 9314
the second ensuing and each succeeding year ~~by electronic funds~~ 9315
~~transfer electronically~~ as prescribed by, and on or before the 9316
dates specified in, section 5739.032 of the Revised Code, except 9317
as otherwise prescribed by that section. 9318

(C) For purposes of reporting and remitting the tax, the 9319
price of tangible personal property or services purchased by, or 9320
of tangible personal property produced by, the permit holder 9321
shall be determined under division (G) of section 5741.01 of the 9322
Revised Code. Except as otherwise provided in division (E) of 9323

section 5739.033 of the Revised Code, the situs of any purchase 9324
transaction made by the permit holder is the location where the 9325
tangible personal property or service is received by the permit 9326
holder. 9327

(D) It shall be the duty of every permit holder required 9328
to make a return and pay its tax under this section to keep and 9329
preserve suitable records of purchases together with invoices of 9330
purchases, bills of lading, asset ledgers, depreciation 9331
schedules, transfer journals, and such other primary and 9332
secondary records and documents in such form as the commissioner 9333
requires. All such records and other documents shall be open 9334
during business hours to the inspection of the tax commissioner, 9335
and shall be preserved for a period of four years, unless the 9336
commissioner, in writing, has authorized their destruction or 9337
disposal at an earlier date, or by order or by reason of a 9338
waiver of the four-year time limitation pursuant to section 9339
5739.16 of the Revised Code requires that they be kept longer. 9340

(E) A permit granted pursuant to this section shall 9341
continue to be valid until surrendered by the holder or canceled 9342
for cause by the tax commissioner. 9343

(F) Persons who hold a direct payment permit that has not 9344
been canceled shall not be required to issue exemption 9345
certificates and shall not be required to pay the tax as 9346
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 9347
Revised Code. Such persons shall notify vendors and sellers from 9348
whom purchases of tangible personal property or services are 9349
made, of their direct payment permit number and that the tax is 9350
being paid directly to the state. Upon receipt of such notice, 9351
such vendor or seller shall be absolved from all duties and 9352
liabilities imposed by section 5739.03 or 5741.04 of the Revised 9353

Code with respect to sales of tangible personal property or 9354
services to such permit holder. 9355

Vendors and sellers who make sales upon which the tax is 9356
not collected by reason of the provisions of this section shall 9357
maintain records in such manner that the amount involved and 9358
identity of the purchaser may be ascertained. The receipts from 9359
such sales shall not be subject to the tax levied in section 9360
5739.10 of the Revised Code. 9361

Upon the cancellation or surrender of a direct payment 9362
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 9363
of the Revised Code shall immediately apply to all purchases 9364
made subsequent to such cancellation or surrender by the person 9365
who previously held such permit, and such person shall so notify 9366
vendors and sellers from whom purchases of tangible personal 9367
property or services are made, in writing, prior to or at the 9368
time of the first purchase after such cancellation or surrender. 9369
Upon receipt of such notice, the vendor shall be subject to the 9370
provisions of sections 5739.03 and 5739.10 of the Revised Code 9371
and the seller shall be subject to the provisions of section 9372
5741.04 of the Revised Code, with respect to all sales 9373
subsequently made to such person. Failure of any such person to 9374
notify vendors or sellers from whom purchases of tangible 9375
personal property or services are made of the cancellation or 9376
surrender of a direct payment permit shall be considered as a 9377
refusal to pay the tax by the person required to issue such 9378
notice. 9379

Sec. 5739.032. (A) If the total amount of tax required to 9380
be paid by a permit holder under section 5739.031 of the Revised 9381
Code for any calendar year equals or exceeds seventy-five 9382
thousand dollars, the permit holder shall remit each monthly tax 9383

payment in the second ensuing and each succeeding year ~~by~~ 9384
~~electronic funds transfer~~ electronically as prescribed by 9385
division (B) of this section. 9386

If a permit holder's tax payment for each of two 9387
consecutive years is less than seventy-five thousand dollars, 9388
the permit holder is relieved of the requirement to remit taxes 9389
~~by electronic funds transfer~~ electronically for the year that 9390
next follows the second of the consecutive years in which the 9391
tax payment is less than that amount, and is relieved of that 9392
requirement for each succeeding year, unless the tax payment in 9393
a subsequent year equals or exceeds seventy-five thousand 9394
dollars. 9395

~~The tax commissioner shall notify each permit holder~~ 9396
~~required to remit taxes by electronic funds transfer of the~~ 9397
~~permit holder's obligation to do so, shall maintain an updated~~ 9398
~~list of those permit holders, and shall timely certify the list~~ 9399
~~and any additions thereto or deletions therefrom to the~~ 9400
~~treasurer of state. Failure by the tax commissioner to notify a~~ 9401
~~permit holder subject to this section to remit taxes by~~ 9402
~~electronic funds transfer~~ electronically does not relieve the 9403
permit holder of its obligation to remit taxes ~~by electronic~~ 9404
~~funds transfer in that manner.~~ 9405

(B) Permit holders required by division (A) of this 9406
section to remit payments ~~by electronic funds transfer~~ 9407
electronically shall remit such payments ~~to the treasurer of~~ 9408
~~state in the manner prescribed by this section and rules adopted~~ 9409
~~by the treasurer of state under section 113.061 of the Revised~~ 9410
~~Code by using the Ohio business gateway, as defined in section~~ 9411
718.01 of the Revised Code, or another means of electronic 9412
payment, and as follows: 9413

(1) On or before the twenty-third day of each month, a 9414
permit holder shall remit an amount equal to seventy-five per 9415
cent of the anticipated tax liability for that month. 9416

(2) On or before the twenty-third day of each month, a 9417
permit holder shall report the taxes due for the previous month 9418
and shall remit that amount, less any amounts paid for that 9419
month as required by division (B) (1) of this section. 9420

The electronic payment of taxes ~~by electronic funds~~ 9421
~~transfer~~ does not affect a permit holder's obligation to file 9422
the monthly return as required under section 5739.031 of the 9423
Revised Code. 9424

~~(C) A permit holder required by this section to remit~~ 9425
~~taxes by electronic funds transfer may apply to the treasurer of~~ 9426
~~state in the manner prescribed by the treasurer of state to be~~ 9427
~~excused from that requirement. The treasurer of state may excuse~~ 9428
~~the permit holder from remittance by electronic funds transfer~~ 9429
~~for good cause shown for the period of time requested by the~~ 9430
~~permit holder or for a portion of that period. The treasurer of~~ 9431
~~state shall notify the tax commissioner and the permit holder of~~ 9432
~~the treasurer of state's decision as soon as is practicable.~~ 9433

~~(D) (1) (a)~~ (C) (1) (a) If a permit holder that is required to 9434
remit payments under division (B) of this section fails to make 9435
a payment, or makes a payment under division (B) (1) of this 9436
section that is less than seventy-five per cent of the actual 9437
liability for that month, the commissioner may impose an 9438
additional charge not to exceed five per cent of that unpaid 9439
amount. 9440

(b) Division ~~(D) (1) (a)~~ (C) (1) (a) of this section does not 9441
apply if the permit holder's payment under division (B) (1) of 9442

this section is equal to or greater than seventy-five per cent 9443
of the permit holder's reported liability for the same month in 9444
the immediately preceding calendar year. 9445

(2) If a permit holder required by this section to remit 9446
taxes ~~by electronic funds transfer~~ electronically remits those 9447
taxes by some means other than ~~by electronic funds transfer~~ 9448
electronically as prescribed by this section ~~and the rules~~ 9449
~~adopted by the treasurer of state,~~ and the tax commissioner 9450
determines that such failure was not due to reasonable cause or 9451
was due to willful neglect, the commissioner may impose an 9452
additional charge not to exceed the lesser of five per cent of 9453
the amount of the taxes required to be paid ~~by electronic funds~~ 9454
~~transfer~~ electronically or five thousand dollars. 9455

(3) Any additional charge imposed under division ~~(D) (1)~~ 9456
(C) (1) or (2) of this section is in addition to any other 9457
penalty or charge imposed under this chapter, and shall be 9458
considered as revenue arising from taxes imposed under this 9459
chapter. An additional charge may be collected by assessment in 9460
the manner prescribed by section 5739.13 of the Revised Code. 9461
The tax commissioner may waive all or a portion of such a charge 9462
and may adopt rules governing such waiver. 9463

No additional charge shall be imposed under division ~~(D)~~ 9464
~~(2)~~ (C) (2) of this section against a permit holder that has been 9465
notified of its obligation to remit taxes electronically under 9466
this section and that remits its first two tax payments after 9467
such notification by some other means ~~other than electronic~~ 9468
~~funds transfer~~. The additional charge may be imposed upon the 9469
remittance of any subsequent tax payment that the permit holder 9470
remits by some means other than ~~electronic funds~~ 9471
~~transfer~~ electronically. 9472

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor 9473
has paid taxes to the ~~treasurer of state or the treasurer of~~ 9474
~~state's agent, or to the~~ tax commissioner or the commissioner's 9475
agent, the commissioner shall refund to the vendor the amount of 9476
taxes paid, and any penalties assessed with respect to such 9477
taxes, if the vendor has refunded to the consumer the full 9478
amount of taxes the consumer paid illegally or erroneously or if 9479
the vendor has illegally or erroneously billed the consumer but 9480
has not collected the taxes from the consumer. 9481

(B) When, pursuant to this chapter, a consumer has paid 9482
taxes directly to the ~~treasurer of state or the treasurer of~~ 9483
~~state's agent, or to the~~ tax commissioner or the commissioner's 9484
agent, and the payment or assessment was illegal or erroneous, 9485
the commissioner shall refund to the consumer the full amount of 9486
illegal or erroneous taxes paid and any penalties assessed with 9487
respect to such taxes. 9488

(C) The commissioner shall refund to the consumer amounts 9489
paid illegally or erroneously to a vendor only if: 9490

(1) The commissioner has not refunded the tax to the 9491
vendor and the vendor has not refunded the tax to the consumer; 9492
or 9493

(2) The consumer has received a refund from a manufacturer 9494
or other person, other than the vendor, of the full purchase 9495
price, but not the tax, paid to the vendor in settlement of a 9496
complaint by the consumer about the property or service 9497
purchased. 9498

The commissioner may require the consumer to obtain or the 9499
vendor to provide a written statement confirming that the vendor 9500
has not refunded the tax to the consumer and has not filed an 9501

application for refund of the tax with the commissioner. 9502

(D) Subject to division (E) of this section, an 9503
application for refund shall be filed with the tax commissioner 9504
on the form prescribed by the commissioner within four years 9505
from the date of the illegal or erroneous payment, unless the 9506
vendor or consumer waives the time limitation under division (A) 9507
(3) of section 5739.16 of the Revised Code. If the time 9508
limitation is waived, the refund application period shall be 9509
extended for the same period as the waiver. 9510

(E) An application for refund shall be filed in accordance 9511
with division (D) of this section unless a person is subject to 9512
an assessment that is subject to the time limit of division (B) 9513
of section 5703.58 of the Revised Code for amounts not reported 9514
and paid between the four-year time limit described in division 9515
(D) of this section and the seven-year limit described in 9516
division (B) of section 5703.58 of the Revised Code, in which 9517
case the person may file an application within six months after 9518
the date the assessment is issued. Any refund allowed under this 9519
division shall not exceed the amount of the assessment due for 9520
the same period. 9521

(F) On the filing of an application for a refund, the 9522
commissioner shall determine the amount of refund to which the 9523
applicant is entitled. If the amount is not less than that 9524
claimed, the commissioner shall certify that amount to the 9525
director of budget and management and the treasurer of state for 9526
payment from the tax refund fund created by section 5703.052 of 9527
the Revised Code. If the amount is less than that claimed, the 9528
commissioner shall proceed in accordance with section 5703.70 of 9529
the Revised Code. 9530

(G) When a refund is granted under this section, it shall 9531

include interest thereon as provided by section 5739.132 of the Revised Code.

Sec. 5743.05. The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. Each stamp that is to be affixed to a package of cigarettes shall be sold for the amount of tax due on that package, except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of such tax due, as a commission for affixing and canceling the stamps.

The commissioner, by rule, shall authorize the delivery of stamps to wholesale dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the ~~treasurer of state~~ ~~or the~~ commissioner within thirty days or the following twenty-third day of June, whichever comes first for stamps delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall not require that the dealer file such a bond but shall require payment for the stamps within thirty days after purchase of the stamps or the following twenty-third day of June, whichever comes first. Each stamp that is sold to a dealer not required to file a bond shall be sold for the amount of tax due on that package of cigarettes. The maximum amount that may be sold on credit to a dealer not

required to file a bond shall equal one hundred ten per cent of 9563
the dealer's average monthly purchases over the preceding 9564
calendar year. The maximum amount shall be adjusted to reflect 9565
any changes in the tax rate and may be adjusted, upon 9566
application to the commissioner by the dealer, to reflect 9567
changes in the business operations of the dealer. The maximum 9568
amount shall be applicable to the period between the first day 9569
of July to the following twenty-third day of June. Payment by a 9570
dealer not required to file a bond shall be remitted by 9571
electronic funds transfer as prescribed by section 5743.051 of 9572
the Revised Code. If a dealer not required to file a bond fails 9573
to make the payment in full within the required payment period, 9574
the commissioner shall not thereafter sell stamps to that dealer 9575
until the dealer pays the outstanding amount, including penalty 9576
and interest on that amount as prescribed in this chapter, and 9577
the commissioner thereafter may require the dealer to file a 9578
bond until the dealer is restored to good standing. The 9579
commissioner shall limit delivery of stamps on credit to the 9580
period running from the first day of July of the fiscal year 9581
until the twenty-third day of the following June. Any discount 9582
allowed as a commission for affixing and canceling stamps shall 9583
be allowed with respect to sales of stamps on credit. 9584

The commissioner shall redeem and pay for any destroyed, 9585
unused, or spoiled tax stamps at their net value, and shall 9586
refund to wholesale dealers the net amount of state and county 9587
taxes paid erroneously or paid on cigarettes that have been sold 9588
in interstate or foreign commerce or that have become unsalable, 9589
and the net amount of county taxes that were paid on cigarettes 9590
that have been sold at retail or for retail sale outside a 9591
taxing county. 9592

An application for a refund of tax shall be filed with the 9593

commissioner, on the form prescribed by the commissioner for 9594
that purpose, within three years from the date the tax stamps 9595
are destroyed or spoiled, from the date of the erroneous 9596
payment, or from the date that cigarettes on which taxes have 9597
been paid have been sold in interstate or foreign commerce or 9598
have become unsalable. 9599

On the filing of the application, the commissioner shall 9600
determine the amount of refund to which the applicant is 9601
entitled, payable from receipts of the state tax, and, if 9602
applicable, payable from receipts of a county tax. If the amount 9603
is not less than that claimed, the commissioner shall certify 9604
the amount to the director of budget and management and 9605
treasurer of state for payment from the tax refund fund created 9606
by section 5703.052 of the Revised Code. If the amount is less 9607
than that claimed, the commissioner shall proceed in accordance 9608
with section 5703.70 of the Revised Code. 9609

If a refund is granted for payment of an illegal or 9610
erroneous assessment issued by the department, the refund shall 9611
include interest on the amount of the refund from the date of 9612
the overpayment. The interest shall be computed at the rate per 9613
annum prescribed by section 5703.47 of the Revised Code. 9614

Sec. 5743.051. This section applies to any wholesale or 9615
retail cigarette dealer required by section 5743.05 of the 9616
Revised Code to remit payment for tax stamps ~~by electronic funds~~ 9617
~~transfer~~electronically. The tax commissioner shall notify each 9618
dealer of the dealer's obligation to do so and shall maintain an 9619
updated list of those dealers. Failure by the ~~tax~~ commissioner 9620
to notify a dealer subject to this section to remit taxes ~~by~~ 9621
~~electronic funds transfer~~electronically does not relieve the 9622
dealer of its obligation to remit taxes ~~by electronic funds~~ 9623

~~transfer~~in that manner. 9624

A dealer required to remit payments ~~by electronic funds transfer electronically~~ shall remit such payments to the 9625
~~treasurer of state commissioner~~ in the manner ~~prescribed by~~ 9626
~~rules adopted by the treasurer of state under section 113.061 of~~ 9627
~~the Revised Code approved by the commissioner~~ and within the 9628
time prescribed for such a dealer by section 5743.05 of the 9629
Revised Code. 9630
9631

A dealer required to remit taxes ~~by electronic funds transfer electronically~~ may apply to the ~~tax~~ commissioner in the 9632
manner prescribed by the ~~tax~~ commissioner to be excused from 9633
that requirement. The ~~tax~~ commissioner may excuse the dealer 9634
from electronic remittance ~~by electronic funds transfer~~ for good 9635
cause shown for the period of time requested by the dealer or 9636
for a portion of that period. 9637
9638

If a dealer required to remit taxes ~~by electronic funds transfer electronically~~ remits those taxes by some other means, 9639
~~the treasurer of state shall notify the tax commissioner of the~~ 9640
~~failure to remit by electronic funds transfer. If and~~ the ~~tax~~ 9641
commissioner determines that such failure was not due to 9642
reasonable cause or was due to willful neglect, the ~~tax~~ 9643
commissioner may collect an additional charge by assessment in 9644
the manner prescribed by section 5743.081 of the Revised Code. 9645
The additional charge shall equal five per cent of the amount of 9646
the taxes required to be paid ~~by electronic funds transfer~~ 9647
electronically but shall not exceed five thousand dollars. Any 9648
additional charge assessed under this section is in addition to 9649
any other penalty or charge imposed under this chapter and shall 9650
be considered as revenue arising from taxes imposed under this 9651
chapter. The ~~tax~~ commissioner may abate all or a portion of such 9652
9653

a charge and may adopt rules governing such remissions. 9654

No additional charge shall be assessed under this section 9655
against a dealer that has been notified of its obligation to 9656
remit taxes electronically under this section and that remits 9657
its first two tax payments after such notification by some other 9658
~~means other than electronic funds transfer~~. The additional 9659
charge may be assessed upon the remittance of any subsequent tax 9660
payment that the dealer remits by some means other than 9661
~~electronic funds transfer~~electronically. 9662

Sec. 5743.15. (A) Except as otherwise provided in this 9663
division, no person shall engage in this state in the wholesale 9664
or retail business of trafficking in cigarettes or in the 9665
business of a manufacturer or importer of cigarettes without 9666
having a license to conduct each such activity issued by a 9667
county auditor under division (B) of this section or the tax 9668
commissioner under divisions (C) and (F) of this section. On 9669
dissolution of a partnership by death, the surviving partner may 9670
operate under the license of the partnership until expiration of 9671
the license, and the heirs or legal representatives of deceased 9672
persons, and receivers and trustees in bankruptcy appointed by 9673
any competent authority, may operate under the license of the 9674
person succeeded in possession by such heir, representative, 9675
receiver, or trustee in bankruptcy if the partner or successor 9676
notifies the issuer of the license of the dissolution or 9677
succession within thirty days after the dissolution or 9678
succession. 9679

(B) (1) Each applicant for a license to engage in the 9680
retail business of trafficking in cigarettes under this section, 9681
annually, on or before the ~~fourth Monday of May~~first day of 9682
June, shall make and deliver to the county auditor of the county 9683

in which the applicant desires to engage in the retail business 9684
of trafficking in cigarettes, upon a blank form furnished by 9685
such auditor for that purpose, a statement showing the name of 9686
the applicant, each physical place in the county where the 9687
applicant's business is conducted, the nature of the business, 9688
and any other information the tax commissioner requires in the 9689
form of statement prescribed by the commissioner. If the 9690
applicant is a firm, partnership, or association other than a 9691
corporation, the application shall state the name and address of 9692
each of its members. If the applicant is a corporation, the 9693
application shall state the name and address of each of its 9694
officers. At the time of making the application required by this 9695
section, every person desiring to engage in the retail business 9696
of trafficking in cigarettes shall pay an application fee in the 9697
sum of one hundred twenty-five dollars for each physical place 9698
where the person proposes to carry on such business. Each place 9699
of business shall be deemed such space, under lease or license 9700
to, or under the control of, or under the supervision of the 9701
applicant, as is contained in one or more contiguous, adjacent, 9702
or adjoining buildings constituting an industrial plant or a 9703
place of business operated by, or under the control of, one 9704
person, or under one roof and connected by doors, halls, 9705
stairways, or elevators, which space may contain any number of 9706
points at which cigarettes are offered for sale, provided that 9707
each additional point at which cigarettes are offered for sale 9708
shall be listed in the application. 9709

(2) Upon receipt of the application and exhibition of the 9710
county treasurer's receipt showing the payment of the 9711
application fee, the county auditor shall issue to the applicant 9712
a license for each place of business designated in the 9713
application, authorizing the applicant to engage in such 9714

business at such place for one year commencing on the ~~fourth-~~ 9715
~~Monday of May~~first day of June. The form of the license shall be 9716
prescribed by the commissioner. A duplicate license may be 9717
obtained from the county auditor upon payment of a five-dollar 9718
fee if the original license is lost, destroyed, or defaced. When 9719
an application is filed after the ~~fourth Monday of May~~first day 9720
of June, the application fee required to be paid shall be 9721
proportioned in amount to the remainder of the license year, 9722
except that it shall not be less than twenty-five dollars in any 9723
one year. 9724

(3) The holder of a retail dealer's cigarette license may 9725
transfer the license to a place of business within the same 9726
county other than that designated on the license on condition 9727
that the licensee's ownership interest and business structure 9728
remain unchanged, and that the licensee applies to the county 9729
auditor therefor, upon forms approved by the commissioner and 9730
the payment of a fee of five dollars into the county treasury. 9731

(C) (1) Each applicant for a license to engage in the 9732
wholesale business of trafficking in cigarettes under this 9733
section, annually, on or before the ~~fourth Monday in May~~first 9734
day of June, shall make and deliver to the tax commissioner, 9735
upon a blank form furnished by the commissioner for that 9736
purpose, a statement showing the name of the applicant, physical 9737
street address where the applicant's business is conducted, the 9738
nature of the business, and any other information required by 9739
the commissioner. If the applicant is a firm, partnership, or 9740
association other than a corporation, the applicant shall state 9741
the name and address of each of its members. If the applicant is 9742
a corporation, the applicant shall state the name and address of 9743
each of its officers. At the time of making the application 9744
required by this section, every person desiring to engage in the 9745

wholesale business of trafficking in cigarettes shall pay an 9746
application fee of one thousand dollars for each physical place 9747
where the person proposes to carry on such business. Each place 9748
of business shall be deemed such space, under lease or license 9749
to, or under the control of, or under the supervision of the 9750
applicant, as is contained in one or more contiguous, adjacent, 9751
or adjoining buildings constituting an industrial plant or a 9752
place of business operated by, or under the control of, one 9753
person, or under one roof and connected by doors, halls, 9754
stairways, or elevators. A duplicate license may be obtained 9755
from the commissioner upon payment of a twenty-five-dollar fee 9756
if the original license is lost, destroyed, or defaced. 9757

(2) Upon receipt of the application and payment of any 9758
application fee required by this section, the commissioner shall 9759
verify that the applicant is not in violation of any provision 9760
of Chapter 1346. or Title LVII of the Revised Code. The 9761
commissioner shall also verify that the applicant has filed any 9762
returns, submitted any information, and paid any outstanding 9763
taxes, charges, or fees as required for any tax, charge, or fee 9764
administered by the commissioner, to the extent that the 9765
commissioner is aware of the returns, information, or payments 9766
at the time of the application. Upon approval, the commissioner 9767
shall issue to the applicant a license for each physical place 9768
of business designated in the application authorizing the 9769
applicant to engage in business at that location for one year 9770
commencing on the ~~fourth Monday in May~~first day of June. For 9771
licenses issued after the ~~fourth Monday in May~~first day of June, 9772
the application fee shall be reduced proportionately by the 9773
remainder of the twelve-month period for which the license is 9774
issued, except that the application fee required to be paid 9775
under this section shall be not less than two hundred dollars in 9776

any one year. 9777

(3) The holder of a wholesale dealer cigarette license may 9778
transfer the license to a place of business other than that 9779
designated on the license on condition that the licensee's 9780
ownership or business structure remains unchanged, and that the 9781
licensee applies to the commissioner for such a transfer upon a 9782
form promulgated by the commissioner and pays a fee of twenty- 9783
five dollars, which shall be deposited into the cigarette tax 9784
enforcement fund created in division (E) of this section. 9785

(D) (1) The wholesale cigarette license application fees 9786
collected under this section shall be paid into the cigarette 9787
tax enforcement fund. 9788

(2) The retail cigarette license application fees 9789
collected under this section shall be distributed as follows: 9790

(a) Thirty per cent shall be paid upon the warrant of the 9791
county auditor into the treasury of the municipal corporation or 9792
township in which the places of business for which the tax 9793
revenue was received are located; 9794

(b) Ten per cent shall be credited to the general fund of 9795
the county; 9796

(c) Sixty per cent shall be paid into the cigarette tax 9797
enforcement fund. 9798

(3) The remainder of the revenues and fines collected 9799
under this section and the penal laws relating to cigarettes 9800
shall be distributed as follows: 9801

(a) Three-fourths shall be paid upon the warrant of the 9802
county auditor into the treasury of the municipal corporation or 9803
township in which the place of business, on account of which the 9804

revenues and fines were received, is located; 9805

(b) One-fourth shall be credited to the general fund of 9806
the county. 9807

(E) There is hereby created within the state treasury the 9808
cigarette tax enforcement fund for the purpose of providing 9809
funds to assist in paying the costs of enforcing sections 9810
1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 9811

The portion of cigarette license application fees received 9812
by a county auditor during the annual application period that 9813
ends on the ~~fourth Monday in May~~ first day of June and that is 9814
required to be deposited in the cigarette tax enforcement fund 9815
shall be sent to the ~~treasurer of state~~ tax commissioner by the 9816
thirtieth day of June each year accompanied by the form 9817
prescribed by the tax commissioner. The portion of cigarette 9818
license application fees received by each county auditor after 9819
the ~~fourth Monday in May~~ first day of June and that is required 9820
to be deposited in the cigarette tax enforcement fund shall be 9821
sent to the ~~treasurer of state~~ commissioner by the last day of 9822
the month following the month in which such fees were collected. 9823

(F) (1) Every person who desires to engage in the business 9824
of a manufacturer or importer of cigarettes shall, annually, on 9825
or before the ~~fourth Monday of May~~ first day of June, make and 9826
deliver to the tax commissioner, upon a blank form furnished by 9827
the commissioner for that purpose, a statement showing the name 9828
of the applicant, the nature of the applicant's business, and 9829
any other information required by the commissioner. If the 9830
applicant is a firm, partnership, or association other than a 9831
corporation, the applicant shall state the name and address of 9832
each of its members. If the applicant is a corporation, the 9833
applicant shall state the name and address of each of its 9834

officers. 9835

(2) Upon receipt of the application required under this 9836
section, the commissioner shall verify that the applicant is not 9837
in violation of any provision of Chapter 1346. of the Revised 9838
Code. The commissioner shall also verify that the applicant has 9839
filed any returns, submitted any information, and paid any 9840
outstanding taxes, charges, or fees as required for any tax, 9841
charge, or fee administered by the commissioner, to the extent 9842
that the commissioner is aware of the returns, information, 9843
taxes, charges, or fees at the time of the application. Upon 9844
approval, the commissioner shall issue to the applicant a 9845
license authorizing the applicant to engage in the business of 9846
manufacturer or importer, whichever the case may be, for one 9847
year commencing on the ~~fourth Monday of May~~first day of June. 9848

(3) The issuing of a license under division (F)(1) of this 9849
section to a manufacturer does not excuse a manufacturer from 9850
the certification process required under section 1346.05 of the 9851
Revised Code. A manufacturer who is issued a license under 9852
division (F)(1) of this section and who is not listed on the 9853
directory required under section 1346.05 of the Revised Code 9854
shall not be permitted to sell cigarettes in this state other 9855
than to a licensed cigarette wholesaler for sale outside this 9856
state. Such a manufacturer shall provide documentation to the 9857
commissioner evidencing that the cigarettes are legal for sale 9858
in another state. 9859

(G) The tax commissioner may adopt rules necessary to 9860
administer this section. 9861

Sec. 5745.03. (A) For each taxable year, each taxpayer 9862
shall file an annual report with the tax commissioner not later 9863
than the fifteenth day of the fourth month after the end of the 9864

taxpayer's taxable year, and shall remit with that report the 9865
amount of tax due as shown on the report less the amount paid 9866
for the year under section 5745.04 of the Revised Code. The 9867
remittance shall be made in the form prescribed by the ~~tax-~~ 9868
commissioner. If the amount payable with the report exceeds one 9869
thousand dollars, the taxpayer shall remit the amount ~~by-~~ 9870
~~electronic funds transfer as electronically in a manner~~ 9871
prescribed by the ~~treasurer of state~~commissioner. The ~~tax-~~ 9872
commissioner shall ~~immediately forward to the treasurer of state-~~ 9873
~~all amounts that the tax commissioner receives pursuant to this-~~ 9874
~~chapter. The treasurer of state shall credit~~ ninety-eight and 9875
one-half per cent of such remittances to the municipal income 9876
tax fund, which is hereby created in the state treasury, and 9877
credit the remainder to the municipal income tax administrative 9878
fund, which is hereby created in the state treasury. 9879

(B) Any taxpayer that has been granted an extension for 9880
filing a federal income tax return may request an extension for 9881
filing the return required under this section by filing with the 9882
tax commissioner a copy of the taxpayer's request for the 9883
federal filing extension. The request shall be filed not later 9884
than the last day for filing the return as required under 9885
division (A) of this section. If such a request is properly and 9886
timely filed, the ~~tax-~~commissioner shall extend the last day for 9887
filing the return required under this section for the same 9888
period for which the federal filing extension was granted. The 9889
~~tax-~~commissioner may deny the filing extension request only if 9890
the taxpayer fails to timely file the request, fails to file a 9891
copy of the federal extension request, owes past due taxes, 9892
interest, or penalty under this chapter, or has failed to file a 9893
required report or other document for a prior taxable year. The 9894
granting of an extension under this section does not extend the 9895

last day for paying taxes without penalty pursuant to this 9896
chapter unless the ~~tax~~-commissioner extends the payment date. 9897

(C) The annual report shall include statements of the 9898
following facts as of the last day of the taxpayer's taxable 9899
year: 9900

(1) The name of the taxpayer; 9901

(2) The name of the state or country under the laws of 9902
which it is incorporated; 9903

(3) The location of its principal office in this state 9904
and, in the case of a taxpayer organized under the laws of 9905
another state, the principal place of business in this state and 9906
the name and address of the officer or agent of the taxpayer in 9907
charge of the business conducted in this state; 9908

(4) The names of the president, secretary, treasurer, and 9909
statutory agent in this state, with the post-office address of 9910
each; 9911

(5) The date on which the taxpayer's taxable year begins 9912
and ends; 9913

(6) The taxpayer's federal taxable income during the 9914
taxpayer's taxable year; 9915

(7) Any other information the tax commissioner requires 9916
for the proper administration of this chapter. 9917

(D) The tax commissioner may require any reports required 9918
under this chapter to be filed in an electronic format. 9919

(E) A municipal corporation may not require a taxpayer 9920
required to file a report under this section to file a report of 9921
the taxpayer's income, but a municipal corporation may require a 9922

taxpayer to report to the municipal corporation the value of the 9923
taxpayer's real and tangible personal property situated in the 9924
municipal corporation, compensation paid by the taxpayer to its 9925
employees in the municipal corporation, and sales made in the 9926
municipal corporation by the taxpayer, to the extent necessary 9927
for the municipal corporation to compute the taxpayer's 9928
municipal property, payroll, and sales factors for the municipal 9929
corporation. 9930

(F) On or before the thirty-first day of January each 9931
year, each municipal corporation imposing a tax on income shall 9932
certify to the tax commissioner the rate of the tax in effect on 9933
the first day of January of that year. If any municipal 9934
corporation fails to certify its income tax rate as required by 9935
this division, the ~~tax~~-commissioner shall notify the director of 9936
budget and management, who, upon receiving such notification, 9937
shall withhold from each payment made to the municipal 9938
corporation under section 5745.05 of the Revised Code fifty per 9939
cent of the amount of the payment otherwise due the municipal 9940
corporation under that section as computed on the basis of the 9941
tax rate most recently certified until the municipal corporation 9942
certifies the tax rate in effect on the first day of January of 9943
that year. 9944

The tax rate used to determine the tax payable to a 9945
municipal corporation under this section for a taxpayer's 9946
taxable year shall be the tax rate in effect in a municipal 9947
corporation on the first day of January in that taxable year. If 9948
a taxpayer's taxable year is for a period less than twelve 9949
months that does not include the first day of January, the tax 9950
rate used to determine the tax payable to a municipal 9951
corporation under this section for the taxpayer's taxable year 9952
shall be the tax rate in effect in a municipal corporation on 9953

the first day of January in the preceding taxable year. 9954

Sec. 5745.04. (A) As used in this section, "combined tax 9955
liability" means the total of a taxpayer's income tax 9956
liabilities to all municipal corporations in this state for a 9957
taxable year. 9958

(B) ~~Beginning with its taxable year beginning in 2003,~~ 9959
~~each~~ Each taxpayer shall file a declaration of estimated tax 9960
report with, and remit estimated taxes to, the tax commissioner, 9961
payable to the treasurer of state, at the times and in the 9962
amounts prescribed in divisions (B)(1) to (4) of this section. 9963
~~This division also applies to a taxpayer having a taxable year~~ 9964
~~consisting of fewer than twelve months, at least one of which is~~ 9965
~~in 2002, that ends before January 1, 2003.~~ The first taxable 9966
year a taxpayer is subject to this chapter, the estimated taxes 9967
the taxpayer is required to remit under this section shall be 9968
based solely on the current taxable year and not on the 9969
liability for the preceding taxable year. 9970

(1) Not less than twenty-five per cent of the combined tax 9971
liability for the preceding taxable year or twenty per cent of 9972
the combined tax liability for the current taxable year shall 9973
have been remitted not later than the fifteenth day of the 9974
fourth month after the end of the preceding taxable year. 9975

(2) Not less than fifty per cent of the combined tax 9976
liability for the preceding taxable year or forty per cent of 9977
the combined tax liability for the current taxable year shall 9978
have been remitted not later than the fifteenth day of the sixth 9979
month after the end of the preceding taxable year. 9980

(3) Not less than seventy-five per cent of the combined 9981
tax liability for the preceding taxable year or sixty per cent 9982

of the combined tax liability for the current taxable year shall 9983
have been remitted not later than the fifteenth day of the ninth 9984
month after the end of the preceding taxable year. 9985

(4) Not less than one hundred per cent of the combined tax 9986
liability for the preceding taxable year or eighty per cent of 9987
the combined tax liability for the current taxable year shall 9988
have been remitted not later than the fifteenth day of the 9989
twelfth month after the end of the preceding taxable year. 9990

(C) Each taxpayer shall report on the declaration of 9991
estimated tax report the portion of the remittance that the 9992
taxpayer estimates that it owes to each municipal corporation 9993
for the taxable year. 9994

(D) Upon receiving a declaration of estimated tax report 9995
and remittance of estimated taxes under this section, the tax 9996
commissioner shall ~~immediately forward to the treasurer of state~~ 9997
~~such remittance. The treasurer of state shall credit ninety-~~ 9998
eight and one-half per cent of the remittance to the municipal 9999
income tax fund and credit the remainder to the municipal income 10000
tax administrative fund. 10001

(E) If any remittance of estimated taxes is for one 10002
thousand dollars or more, the taxpayer shall make the remittance 10003
~~by electronic funds transfer~~ electronically as prescribed by 10004
section ~~5745.04~~ 5745.041 of the Revised Code. 10005

(F) Notwithstanding section 5745.08 or 5745.09 of the 10006
Revised Code, no penalty or interest shall be imposed on a 10007
taxpayer if the declaration of estimated tax report is properly 10008
filed, and the estimated tax is paid, within the time prescribed 10009
by division (B) of this section. 10010

Sec. 5745.041. Any taxpayer required by section 5745.03 or 10011

5745.04 of the Revised Code to remit tax payments ~~by electronic funds transfer electronically~~ shall remit such payments ~~to the treasurer of state in the manner prescribed by rules adopted by the treasurer under section 113.061 of the Revised Code~~ in the manner prescribed by the tax commissioner. Except as otherwise provided in this paragraph, the payment of taxes ~~by electronic funds transfer electronically~~ does not affect a taxpayer's obligation to file reports under this chapter. ~~If a taxpayer remits estimated tax payments in a manner, designated by rule of the treasurer of state, that permits the inclusion of all information necessary for the treasurer of state to process the payment, the taxpayer is not required to file the declaration of estimated tax report as otherwise required under section 5745.04 of the Revised Code.~~

~~The treasurer of state, in consultation with the tax commissioner, may adopt rules governing the format for reporting and paying estimated taxes by electronic funds transfer.~~

A taxpayer required to remit taxes ~~by electronic funds transfer electronically~~ may apply to the ~~treasurer of state tax commissioner~~ in the manner prescribed by the treasurer commissioner to be excused from that requirement. The ~~treasurer of state commissioner~~ may excuse the taxpayer from the requirement for good cause shown for the period of time requested by the taxpayer or for a portion of that period. ~~The treasurer shall notify the tax commissioner and the taxpayer of the treasurer's decision as soon as is practicable.~~

If a taxpayer required by this section to remit taxes ~~by electronic funds transfer electronically~~ remits those taxes by some means other than ~~by electronic funds transfer electronically~~ as prescribed by this section ~~and the rules~~

~~adopted by the treasurer of state, and the treasurer-~~ 10042
~~commissioner~~ determines that such failure was not due to 10043
reasonable cause or was due to willful neglect, the ~~treasurer-~~ 10044
~~shall notify the tax commissioner of the failure to remit by-~~ 10045
~~electronic funds transfer and shall provide the commissioner-~~ 10046
~~with any information used in making that determination. The tax-~~ 10047
commissioner may collect an additional charge by assessment in 10048
the manner prescribed by section 5745.12 of the Revised Code. 10049
The additional charge shall equal five per cent of the amount of 10050
the taxes or estimated tax payments required to be paid ~~by-~~ 10051
~~electronic funds transfer~~electronically, but shall not exceed 10052
five thousand dollars. Any additional charge assessed under this 10053
section is in addition to any other penalty or charge imposed 10054
under this chapter, and shall be considered as revenue arising 10055
from municipal income taxes collected under this chapter. The 10056
~~tax~~-commissioner may remit all or a portion of such a charge and 10057
may adopt rules governing such remission. 10058

No additional charge shall be assessed under this section 10059
against a taxpayer that has been notified of its obligation to 10060
remit taxes electronically under this section and that remits 10061
its first two tax payments after such notification by some other 10062
~~means other than electronic funds transfer~~. The additional 10063
charge may be assessed upon the remittance of any subsequent tax 10064
payment that the taxpayer remits by some means other than 10065
~~electronic funds transfer~~electronically. 10066

Sec. 5747.059. (A) This section applies only to reduce a 10067
taxpayer's aggregate tax liability under section 5747.02 of the 10068
Revised Code. 10069

(B) There is hereby allowed a refundable credit against a 10070
taxpayer's aggregate tax liability under section 5747.02 of the 10071

Revised Code. This credit shall be equal to the taxpayer's 10072
proportionate share of the lesser of either the tax due or the 10073
tax paid under section 5733.41 or 5747.41 of the Revised Code by 10074
any qualifying entity as defined in section 5733.40 of the 10075
Revised Code for the qualifying taxable year of the qualifying 10076
entity which ends in the taxable year of the taxpayer. 10077

(C) The taxpayer shall claim the credit for the taxpayer's 10078
taxable year in which ends the qualifying entity's qualifying 10079
taxable year. For purposes of making tax payments under this 10080
chapter, taxes equal to the amount of the credit shall be 10081
considered to be paid by the taxpayer to this state on the day 10082
that the qualifying entity pays to the ~~treasurer of state tax~~ 10083
commissioner the amount due pursuant to section 5733.41 and 10084
sections 5747.41 to 5747.453 of the Revised Code with respect to 10085
and for the taxpayer. 10086

(D) In claiming the credit and determining the taxpayer's 10087
proportionate share of the tax due and the tax paid by any 10088
qualifying entity, the taxpayer shall follow the concepts set 10089
forth in subchapters J and K of the Internal Revenue Code. 10090

(E) The credit shall be claimed in the order required 10091
under section 5747.98 of the Revised Code. If the amount of the 10092
credit under this section exceeds the aggregate amount of tax 10093
otherwise due under section 5747.02 of the Revised Code after 10094
deduction of all other credits in that order, the taxpayer is 10095
entitled to a refund of the excess. 10096

Sec. 5747.07. (A) As used in this section: 10097

(1) "Partial weekly withholding period" means a period 10098
during which an employer directly, indirectly, or constructively 10099
pays compensation to, or credits compensation to the benefit of, 10100

an employee, and that consists of a consecutive Saturday, 10101
Sunday, Monday, and Tuesday or a consecutive Wednesday, 10102
Thursday, and Friday. There are two partial weekly withholding 10103
periods each week, except that a partial weekly withholding 10104
period cannot extend from one calendar year into the next 10105
calendar year; if the first day of January falls on a day other 10106
than Saturday or Wednesday, the partial weekly withholding 10107
period ends on the thirty-first day of December and there are 10108
three partial weekly withholding periods during that week. 10109

(2) "Undeposited taxes" means the taxes an employer is 10110
required to deduct and withhold from an employee's compensation 10111
pursuant to section 5747.06 of the Revised Code that have not 10112
been remitted to the tax commissioner pursuant to this section 10113
or ~~to the treasurer of state pursuant to~~ section 5747.072 of the 10114
Revised Code. 10115

(3) A "week" begins on Saturday and concludes at the end 10116
of the following Friday. 10117

(4) "Professional employer organization," "professional 10118
employer organization agreement," and "professional employer 10119
organization reporting entity" have the same meanings as in 10120
section 4125.01 of the Revised Code. 10121

(5) "Alternate employer organization" and "alternate 10122
employer organization agreement" have the same meanings as in 10123
section 4133.01 of the Revised Code. 10124

(6) "Client employer" has the same meaning as in section 10125
4125.01 of the Revised Code in the context of a professional 10126
employer organization or a professional employer organization 10127
reporting entity, or the same meaning as in section 4133.01 of 10128
the Revised Code in the context of an alternate employer 10129

organization. 10130

(B) Except as provided in divisions (C) and (D) of this 10131
section and in division (A) of section 5747.072 of the Revised 10132
Code, every employer required to deduct and withhold any amount 10133
under section 5747.06 of the Revised Code shall file a return 10134
and shall pay the amount required by law as follows: 10135

(1) An employer who accumulates or is required to 10136
accumulate undeposited taxes of one hundred thousand dollars or 10137
more during a partial weekly withholding period shall make the 10138
payment of the undeposited taxes by the close of the first 10139
banking day after the day on which the accumulation reaches one 10140
hundred thousand dollars. If required under division (I) of this 10141
section, the payment shall be made ~~by electronic funds transfer~~ 10142
electronically under section 5747.072 of the Revised Code. 10143

(2) Except as required by division (B) (1) of this section, 10144
an employer whose actual or required payments under this section 10145
were at least eighty-four thousand dollars during the twelve- 10146
month period ending on the thirtieth day of June of the 10147
preceding calendar year shall make the payment of undeposited 10148
taxes within three banking days after the close of a partial 10149
weekly withholding period during which the employer was required 10150
to deduct and withhold any amount under this chapter. If 10151
required under division (I) of this section, the payment shall 10152
be made ~~by electronic funds transfer~~ electronically under 10153
section 5747.072 of the Revised Code. 10154

(3) Except as required by divisions (B) (1) and (2) of this 10155
section, if an employer's actual or required payments were more 10156
than two thousand dollars during the twelve-month period ending 10157
on the thirtieth day of June of the preceding calendar year, the 10158
employer shall make the payment of undeposited taxes for each 10159

month during which they were required to be withheld no later 10160
than fifteen days following the last day of that month. The 10161
employer shall file the return prescribed by the tax 10162
commissioner with the payment. 10163

(4) Except as required by divisions (B)(1), (2), and (3) 10164
of this section, an employer shall make the payment of 10165
undeposited taxes for each calendar quarter during which they 10166
were required to be withheld no later than the last day of the 10167
month following the last day of March, June, September, and 10168
December each year. The employer shall file the return 10169
prescribed by the tax commissioner with the payment. 10170

(C) The return and payment schedules prescribed by 10171
divisions (B)(1) and (2) of this section do not apply to the 10172
return and payment of undeposited school district income taxes 10173
arising from taxes levied pursuant to Chapter 5748. of the 10174
Revised Code. Undeposited school district income taxes shall be 10175
returned and paid pursuant to divisions (B)(3) and (4) of this 10176
section, as applicable. 10177

(D)(1) The requirements of division (B) of this section 10178
are met if the amount paid is not less than ninety-five per cent 10179
of the actual tax withheld or required to be withheld for the 10180
prior quarterly, monthly, or partial weekly withholding period, 10181
and the underpayment is not due to willful neglect. Any 10182
underpayment of withheld tax shall be paid within thirty days of 10183
the date on which the withheld tax was due without regard to 10184
division (D)(1) of this section. An employer described in 10185
division (B)(1) or (2) of this section shall make the payment ~~by~~ 10186
~~electronic funds transfer~~ electronically under section 5747.072 10187
of the Revised Code. 10188

(2) If the tax commissioner believes that quarterly or 10189

monthly payments would result in a delay that might jeopardize 10190
the remittance of withholding payments, the commissioner may 10191
order that the payments be made weekly, or more frequently if 10192
necessary, and the payments shall be made no later than three 10193
banking days following the close of the period for which the 10194
jeopardy order is made. An order requiring weekly or more 10195
frequent payments shall be delivered to the employer ~~personally~~ 10196
~~or by certified mail~~ in the manner provided in section 5703.37 10197
of the Revised Code and remains in effect until the commissioner 10198
notifies the employer to the contrary. 10199

(3) If compelling circumstances exist concerning the 10200
remittance of undeposited taxes, the commissioner may order the 10201
employer to make payments under any of the payment schedules 10202
under division (B) of this section. The order shall be delivered 10203
to the employer ~~personally or by certified mail~~ in the manner 10204
provided in section 5703.37 of the Revised Code and shall remain 10205
in effect until the commissioner notifies the employer to the 10206
contrary. For purposes of division (D) (3) of this section, 10207
"compelling circumstances" exist if either or both of the 10208
following are true: 10209

(a) Based upon annualization of payments made or required 10210
to be made during the preceding calendar year and during the 10211
current calendar year, the employer would be required for the 10212
next calendar year to make payments under division (B) (2) of 10213
this section. 10214

(b) Based upon annualization of payments made or required 10215
to be made during the current calendar year, the employer would 10216
be required for the next calendar year to make payments under 10217
division (B) (2) of this section. 10218

(E) (1) ~~An employer described in division (B) (1) or (2) of~~ 10219

~~this section shall file, not later than the last day of the month following the end of each calendar quarter, a return covering, but not limited to, both the actual amount deducted and withheld and the amount required to be deducted and withheld for the tax imposed under section 5747.02 of the Revised Code during each partial weekly withholding period or portion of a partial weekly withholding period during that quarter. The employer shall file the quarterly return even if the aggregate amount required to be deducted and withheld for the quarter is zero dollars. At the time of filing the return, the employer shall pay any amounts of undeposited taxes for the quarter, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. If required under division (I) of this section, the payment shall be made by electronic funds transfer. The tax commissioner shall prescribe the form and other requirements of the quarterly return.~~

~~(2)~~In addition to other returns required to be filed and payments required to be made under this section, every employer required to deduct and withhold taxes shall file, not later than the thirty-first day of January of each year, an annual return covering, but not limited to, both the aggregate amount deducted and withheld and the aggregate amount required to be deducted and withheld during the entire preceding year for the tax imposed under section 5747.02 of the Revised Code and for each tax imposed under Chapter 5748. of the Revised Code. At the time of filing that return, the employer shall pay over any amounts of undeposited taxes for the preceding year, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. The employer shall make the annual report, to each employee and to the tax commissioner, of

the compensation paid and each tax withheld, as the commissioner
by rule may prescribe. 10251
10252

(2) Each employer required to deduct and withhold any tax 10253
is liable for the payment of that amount required to be deducted 10254
and withheld, whether or not the tax has in fact been withheld, 10255
unless the failure to withhold was based upon the employer's 10256
good faith in reliance upon the statement of the employee as to 10257
liability, and the amount shall be deemed to be a special fund 10258
in trust for the general revenue fund. 10259

(F) Each employer shall file with the employer's annual 10260
return the following items of information on employees for whom 10261
withholding is required under section 5747.06 of the Revised 10262
Code: 10263

(1) The full name of each employee, the employee's 10264
address, the employee's school district of residence, and in the 10265
case of a nonresident employee, the employee's principal county 10266
of employment; 10267

(2) The social security number of each employee; 10268

(3) The total amount of compensation paid before any 10269
deductions to each employee for the period for which the annual 10270
return is made; 10271

(4) The amount of the tax imposed by section 5747.02 of 10272
the Revised Code and the amount of each tax imposed under 10273
Chapter 5748. of the Revised Code withheld from the compensation 10274
of the employee for the period for which the annual return is 10275
made. The commissioner may extend upon good cause the period for 10276
filing any notice or return required to be filed under this 10277
section and may adopt rules relating to extensions of time. If 10278
the extension results in an extension of time for the payment of 10279

the amounts withheld with respect to which the return is filed, 10280
the employer shall pay, at the time the amount withheld is paid, 10281
an amount of interest computed at the rate per annum prescribed 10282
by section 5703.47 of the Revised Code on that amount withheld, 10283
from the day that amount was originally required to be paid to 10284
the day of actual payment or to the day an assessment is issued 10285
under section 5747.13 of the Revised Code, whichever occurs 10286
first. 10287

(5) In addition to all other interest charges and 10288
penalties imposed, all amounts of taxes withheld or required to 10289
be withheld and remaining unpaid after the day the amounts are 10290
required to be paid shall bear interest from the date prescribed 10291
for payment at the rate per annum prescribed by section 5703.47 10292
of the Revised Code on the amount unpaid, in addition to the 10293
amount withheld, until paid or until the day an assessment is 10294
issued under section 5747.13 of the Revised Code, whichever 10295
occurs first. 10296

(G) An employee of a corporation, limited liability 10297
company, or business trust having control or supervision of or 10298
charged with the responsibility of filing the report and making 10299
payment, or an officer, member, manager, or trustee of a 10300
corporation, limited liability company, or business trust who is 10301
responsible for the execution of the corporation's, limited 10302
liability company's, or business trust's fiscal 10303
responsibilities, shall be personally liable for failure to file 10304
the report or pay the tax due as required by this section. The 10305
dissolution, termination, or bankruptcy of a corporation, 10306
limited liability company, or business trust does not discharge 10307
a responsible officer's, member's, manager's, employee's, or 10308
trustee's liability for a failure of the corporation, limited 10309
liability company, or business trust to file returns or pay tax 10310

due. 10311

(H) If an employer required to deduct and withhold income 10312
tax from compensation and to pay that tax to the state under 10313
sections 5747.06 and 5747.07 of the Revised Code sells the 10314
employer's business or stock of merchandise or quits the 10315
employer's business, the taxes required to be deducted and 10316
withheld and paid to the state pursuant to those sections prior 10317
to that time, together with any interest and penalties imposed 10318
on those taxes, become due and payable immediately, and that 10319
person shall make a final return within fifteen days after the 10320
date of selling or quitting business. The employer's successor 10321
shall withhold a sufficient amount of the purchase money to 10322
cover the amount of the taxes, interest, and penalties due and 10323
unpaid, until the former owner produces a receipt from the tax 10324
commissioner showing that the taxes, interest, and penalties 10325
have been paid or a certificate indicating that no such taxes 10326
are due. If the purchaser of the business or stock of 10327
merchandise fails to withhold purchase money, the purchaser 10328
shall be personally liable for the payment of the taxes, 10329
interest, and penalties accrued and unpaid during the operation 10330
of the business by the former owner. If the amount of taxes, 10331
interest, and penalties outstanding at the time of the purchase 10332
exceeds the total purchase money, the tax commissioner in the 10333
commissioner's discretion may adjust the liability of the seller 10334
or the responsibility of the purchaser to pay that liability to 10335
maximize the collection of withholding tax revenue. 10336

(I) An employer whose actual or required payments under 10337
this section exceeded eighty-four thousand dollars during the 10338
twelve-month period ending on the thirtieth day of June of the 10339
preceding calendar year shall make all payments required by this 10340
section for the year ~~by electronic funds transfer electronically~~ 10341

under section 5747.072 of the Revised Code. 10342

(J) (1) Every professional employer organization, 10343
professional employer organization reporting entity, and 10344
alternate employer organization shall file a report with the tax 10345
commissioner within thirty days after commencing business in 10346
this state that includes all of the following information: 10347

(a) The name, address, number the employer receives from 10348
the secretary of state to do business in this state, if 10349
applicable, and federal employer identification number of each 10350
client employer of the organization or entity; 10351

(b) The date that each client employer became a client of 10352
the organization or entity; 10353

(c) The names and mailing addresses of the chief executive 10354
officer and the chief financial officer of each client employer 10355
for taxation of the client employer. 10356

(2) Beginning with the calendar quarter ending after a 10357
professional employer organization, professional employer 10358
organization reporting entity, or alternate employer 10359
organization files the report required under division (J) (1) of 10360
this section, and every calendar quarter thereafter, the 10361
organization or entity shall file an updated report with the tax 10362
commissioner. The organization or entity shall file the updated 10363
report not later than the last day of the month following the 10364
end of the calendar quarter and shall include all of the 10365
following information in the report: 10366

(a) If an entity became a client employer of the 10367
professional employer organization, professional employer 10368
organization reporting entity, or alternate employer 10369
organization at any time during the calendar quarter, all of the 10370

information required under division (J)(1) of this section for 10371
each new client employer; 10372

(b) If an entity terminated the professional employer 10373
organization agreement or the alternate employer organization 10374
agreement between the entity and the professional employer 10375
organization, professional employer organization reporting 10376
entity, or alternate employer organization, as applicable, at 10377
any time during the calendar quarter, the information described 10378
in division (J)(1)(a) of this section for that entity, the date 10379
during the calendar quarter that the entity ceased being a 10380
client of the organization or reporting entity, if applicable, 10381
or the date the entity ceased business operations in this state, 10382
if applicable; 10383

(c) If the name or mailing address of the chief executive 10384
officer or the chief financial officer of a client employer has 10385
changed since the professional employer organization, 10386
professional employer organization reporting entity, or 10387
alternate employer organization previously submitted a report 10388
under division (J)(1) or (2) of this section, the updated name 10389
or mailing address, or both, of the chief executive officer or 10390
the chief financial officer, as applicable; 10391

(d) If none of the events described in divisions (J)(2)(a) 10392
to (c) of this section occurred during the calendar quarter, a 10393
statement of that fact. 10394

Sec. 5747.072. (A) Any employer required by section 10395
5747.07 of the Revised Code to remit undeposited taxes ~~by~~ 10396
~~electronic funds transfer electronically~~ shall do so ~~in the~~ 10397
~~manner prescribed by rules adopted by the treasurer of state~~ 10398
~~under section 113.061 of the Revised Code and by using the Ohio~~ 10399
~~business gateway, as defined in section 718.01 of the Revised~~ 10400

Code, or another means of electronic payment on or before the 10401
dates specified under that ~~division~~section. The tax commissioner 10402
shall notify each such employer of the employer's obligation to 10403
remit undeposited taxes ~~by electronic funds transfer, shall~~ 10404
~~maintain an updated list of those employers, and shall provide~~ 10405
~~the list and any additions thereto or deletions therefrom to the~~ 10406
~~treasurer of state~~electronically. Failure by the ~~tax~~ 10407
commissioner to notify an employer subject to this section to 10408
remit taxes ~~by electronic funds transfer~~electronically does not 10409
relieve the employer of its obligation to remit taxes ~~by~~ 10410
~~electronic funds transfer~~in that manner. 10411

~~Except as otherwise provided in this paragraph, the~~ The 10412
~~payment of taxes by electronic funds transfer~~ electronically 10413
does not affect an employer's obligation to file the ~~quarterly~~ 10414
~~return as required under division (E)(1) of section 5747.07 of~~ 10415
~~the Revised Code or the annual return as required under~~ 10416
divisions ~~(E)(2)~~ (E) and (F) of ~~that~~ section 5747.07 of the 10417
Revised Code. If the employer remits estimated tax payments in a 10418
~~manner, designated by the treasurer of state, that permits the~~ 10419
~~inclusion of all information necessary for the treasurer of~~ 10420
~~state to process the tax payment, the employer need not file the~~ 10421
~~return required under division (B) of section 5747.07 of the~~ 10422
~~Revised Code. The treasurer of state, in consultation with the~~ 10423
~~tax commissioner, may adopt rules governing the format for~~ 10424
~~filing the returns under section 5747.07 of the Revised Code by~~ 10425
~~employers who remit undeposited taxes by electronic funds~~ 10426
~~transfer. The rules may permit the filing of returns at less~~ 10427
~~frequent intervals than required by that division if the~~ 10428
~~treasurer of state and the tax commissioner determine that~~ 10429
~~remittance by electronic funds transfer warrants less frequent~~ 10430
~~filing of returns.~~ 10431

An employer required by this section to remit taxes ~~by~~ 10432
~~electronic funds transfer~~ electronically may apply to the 10433
~~treasurer of state~~ commissioner to be excused from that 10434
requirement. The ~~treasurer of state~~ commissioner may excuse the 10435
employer from electronic remittance ~~by electronic funds transfer~~ 10436
for good cause shown for the period of time requested by the 10437
employer or a portion of that period. The ~~treasurer~~ commissioner 10438
shall notify the ~~tax commissioner~~ and the employer of the 10439
~~treasurer's~~ commissioner's decision as soon as is practicable. 10440

(B) If an employer required by this section to remit 10441
undeposited taxes ~~by electronic funds transfer~~ electronically 10442
remits those taxes by some other means ~~other than electronic~~ 10443
~~funds transfer as prescribed by the rules adopted by the~~ 10444
~~treasurer of state~~, and the ~~treasurer~~ tax commissioner 10445
determines that such failure was not due to reasonable cause or 10446
was due to willful neglect, the ~~treasurer shall notify the tax~~ 10447
~~commissioner of the failure to remit by electronic funds~~ 10448
~~transfer and shall provide the commissioner with any information~~ 10449
~~used in making that determination.~~ The tax commissioner may 10450
collect an additional charge by assessment in the manner 10451
prescribed by section 5747.13 of the Revised Code. The 10452
additional charge shall equal five per cent of the amount of the 10453
undeposited taxes, but shall not exceed five thousand dollars. 10454
Any additional charge assessed under this section is in addition 10455
to any other penalty or charge imposed by this chapter, and 10456
shall be considered as revenue arising from the taxes imposed by 10457
this chapter. The ~~tax~~ commissioner may remit all or a portion of 10458
such a charge and may adopt rules governing such remission. 10459

No additional charge shall be assessed under this division 10460
against an employer that has been notified of its obligation to 10461
remit taxes electronically under this section and that remits 10462

its first two tax payments after such notification by some other 10463
~~means other than electronic funds transfer~~. The additional 10464
charge may be assessed upon the remittance of any subsequent tax 10465
payment that the employer remits by some means other than 10466
~~electronic funds transfer~~electronically. 10467

Sec. 5747.42. (A) In addition to the other returns 10468
required to be filed and other remittances required to be made 10469
pursuant to this chapter, every qualifying entity or electing 10470
pass-through entity that is subject to the tax imposed by 10471
section 5733.41, 5747.38, or 5747.41 of the Revised Code shall 10472
file an annual return as follows: 10473

(1) For a qualifying entity, on or before the fifteenth 10474
day of the fourth month following the end of the entity's 10475
qualifying taxable year; 10476

(2) For an electing pass-through entity, on or before the 10477
fifteenth day of April following the end of the entity's taxable 10478
year that ends in the preceding calendar year. 10479

Each entity shall also remit to the tax commissioner, with 10480
the remittance made payable to the treasurer of state, the 10481
amount of the taxes shown to be due on the return, less the 10482
amount paid for the taxable year on a declaration of estimated 10483
tax report filed by the taxpayer as provided by section 5747.43 10484
of the Revised Code. Remittance shall be made in the form 10485
prescribed by the tax commissioner, including ~~electronic funds~~ 10486
~~transfer~~electronically if required by section 5747.44 of the 10487
Revised Code. 10488

A domestic qualifying entity shall not dissolve, and a 10489
foreign qualifying entity shall not withdraw or retire from 10490
business in this state, without filing the tax returns and 10491

paying the taxes charged for the year in which such dissolution 10492
or withdrawal occurs. 10493

(B) The tax commissioner shall furnish qualifying entities 10494
or electing pass-through entities, upon request, copies of the 10495
forms prescribed by the commissioner for the purpose of making 10496
the returns required by sections 5747.42 to 5747.453 of the 10497
Revised Code. 10498

(C) The annual return required by this section shall be 10499
signed by the applicable entity's trustee or other fiduciary, or 10500
president, vice-president, secretary, treasurer, general 10501
manager, general partner, superintendent, or managing agent in 10502
this state. The annual return shall contain the facts, figures, 10503
computations, and attachments that result in the tax charged by 10504
section 5733.41, 5747.38, or 5747.41 of the Revised Code. Each 10505
entity also shall file with its annual return all of the 10506
following: 10507

(1) In the case of the tax charged by section 5733.41 or 10508
5747.41 of the Revised Code, the full name and address of each 10509
qualifying investor or qualifying beneficiary unless the 10510
qualifying entity submits such information in accordance with 10511
division (D) of this section; 10512

(2) In the case of the tax charged by section 5733.41 or 10513
5747.41 of the Revised Code, the social security number, federal 10514
employer identification number, or other identifying number of 10515
each qualifying investor or qualifying beneficiary, unless the 10516
taxpayer submits that information in accordance with division 10517
(D) of this section; 10518

(3) In the case of the tax charged by section 5747.38 of 10519
the Revised Code, the full name and address and the social 10520

security number, federal employer identification number, or 10521
other identifying number of each owner of the electing pass- 10522
through entity, unless the entity submits such information in 10523
accordance with division (D) of this section; 10524

(4) The amount of tax imposed by sections 5733.41 and 10525
5747.41 or by section 5747.38 of the Revised Code, and the 10526
amount of the tax paid by the entity, for the applicable taxable 10527
year covered by the annual return; 10528

(5) The amount of tax imposed by sections 5733.41 and 10529
5747.41 or by section 5747.38 of the Revised Code that is 10530
attributable to each qualifying investor, qualifying 10531
beneficiary, or owner, as applicable, unless the entity submits 10532
this information in accordance with division (D) of this 10533
section. 10534

(D) On the date the annual return is due, including 10535
extensions of time, if any, the applicable entity may be 10536
required by rule to transmit electronically or by magnetic media 10537
the information set forth in division (C) of this section. The 10538
tax commissioner may adopt rules governing the format for the 10539
transmission of such information. The tax commissioner may 10540
exempt an entity or a class of entities from the requirements 10541
imposed by this division. 10542

(E) Upon good cause shown, the tax commissioner may extend 10543
the period for filing any return required to be filed under this 10544
section or section 5747.43 or 5747.44 of the Revised Code and 10545
for transmitting any information required to be transmitted 10546
under those sections. The tax commissioner may adopt rules 10547
relating to extensions of time to file and to transmit. At the 10548
time an entity pays any tax imposed under section 5733.41, 10549
5747.38, or 5747.41 of the Revised Code or estimated tax as 10550

required under section 5747.43 of the Revised Code, the entity 10551
also shall pay interest computed at the rate per annum 10552
prescribed by section 5703.47 of the Revised Code on that tax or 10553
estimated tax, from the time the tax or estimated tax originally 10554
was required to be paid, without consideration of any filing 10555
extensions, to the time of actual payment. Nothing in this 10556
division shall be construed to abate, modify, or limit the 10557
imposition of any penalties imposed for the failure to timely 10558
pay taxes under this chapter or Chapter 5733. of the Revised 10559
Code without consideration of any filing extensions. 10560

Sec. 5747.44. (A) If a qualifying entity's or an electing 10561
pass-through entity's total liability for taxes imposed under 10562
sections 5733.41 and 5747.41 or under section 5747.38 of the 10563
Revised Code exceeds one hundred eighty thousand dollars for the 10564
second preceding taxable year or qualifying taxable year, as 10565
applicable, the entity shall make all payments required under 10566
sections 5747.42 and 5747.43 or under section 5747.38 of the 10567
Revised Code ~~by electronic funds transfer as electronically in~~ 10568
~~the manner prescribed by this section and rules adopted by the~~ 10569
~~treasurer of state under section 113.061 of the Revised Code~~the 10570
tax commissioner. 10571

The tax commissioner shall notify each qualifying entity 10572
and electing pass-through entity required to remit taxes ~~by~~ 10573
~~electronic funds transfer electronically~~ of the entity's 10574
obligation to do so, ~~shall maintain an updated list of those~~ 10575
~~entities, and shall provide the list and any additions thereto~~ 10576
~~or deletions therefrom to the treasurer of state.~~ Failure by the 10577
~~tax~~ commissioner to notify an entity subject to this section to 10578
remit taxes ~~by electronic funds transfer electronically~~ does not 10579
relieve the entity of its obligation to remit taxes ~~by~~ 10580
~~electronic funds transfer~~in that manner. 10581

(B) Except as otherwise provided in this division, the 10582
payment of taxes ~~by electronic funds transfer electronically~~ 10583
does not affect a qualifying entity's or an electing pass- 10584
through entity's obligation to file the returns required under 10585
sections 5747.42 and 5747.43 of the Revised Code. ~~The treasurer-~~ 10586
~~of state, in consultation with the tax commissioner, may adopt-~~ 10587
~~rules in addition to the rules adopted under section 113.061 of~~ 10588
~~the Revised Code governing the format for filing returns by~~ 10589
~~qualifying entities and electing pass-through entities that~~ 10590
~~remit taxes by electronic funds transfer. The rules may provide~~ 10591
~~for the filing of returns at less frequent intervals than~~ 10592
~~otherwise required if the treasurer of state and the tax~~ 10593
~~commissioner determine that remittance by electronic funds~~ 10594
~~transfer warrants less frequent filing of returns.~~ 10595

(C) A qualifying entity or an electing pass-through entity 10596
required by this section to remit taxes ~~by electronic funds~~ 10597
~~transfer electronically~~ may apply to the ~~treasurer of state tax~~ 10598
~~commissioner~~ in the manner prescribed by the ~~treasurer of state~~ 10599
~~commissioner~~ to be excused from that requirement. The ~~treasurer-~~ 10600
~~of state commissioner~~ may excuse the entity from electronic 10601
remittance ~~by electronic funds transfer~~ for good cause shown for 10602
the period of time requested by the entity or for a portion of 10603
that period. The ~~treasurer of state commissioner~~ shall notify 10604
~~the tax commissioner and the entity of the treasurer of state's~~ 10605
commissioner's decision as soon as is practicable. 10606

(D) If a qualifying entity or an electing pass-through 10607
entity required by this section to remit taxes ~~by electronic~~ 10608
~~funds transfer electronically~~ remits those taxes by some means 10609
other than ~~by electronic funds transfer electronically~~ as 10610
prescribed by this section ~~and the rules adopted by the~~ 10611
~~treasurer of state, and the treasurer of state tax commissioner~~ 10612

determines that such failure was not due to reasonable cause or 10613
was due to willful neglect, the ~~treasurer of state shall notify~~ 10614
~~the tax commissioner of the failure to remit by electronic funds~~ 10615
~~transfer and shall provide the commissioner with any information~~ 10616
~~used in making that determination. The tax commissioner may~~ 10617
collect an additional charge by assessment in the manner 10618
prescribed by section 5747.13 of the Revised Code. The 10619
additional charge shall equal five per cent of the amount of the 10620
taxes required to be paid ~~by electronic funds~~ 10621
~~transfer~~electronically, but shall not exceed five thousand 10622
dollars. Any additional charge assessed under this section is in 10623
addition to any other penalty or charge imposed under this 10624
chapter or Chapter 5733. of the Revised Code, and shall be 10625
considered as revenue arising from the taxes imposed under 10626
sections 5733.41 and 5747.41 or under section 5747.38 of the 10627
Revised Code. The ~~tax~~ commissioner may remit all or a portion of 10628
such a charge and may adopt rules governing such remission. 10629

No additional charge shall be assessed under this division 10630
against a qualifying entity or an electing pass-through entity 10631
that has been notified of its obligation to remit taxes 10632
electronically under this section and that remits its first two 10633
tax payments after such notification by some other means ~~other~~ 10634
~~than electronic funds transfer~~. The additional charge may be 10635
assessed upon the remittance of any subsequent tax payment that 10636
the entity remits by some means other than ~~electronic funds~~ 10637
~~transfer~~electronically. 10638

Sec. 5747.451. (A) The mere retirement from business or 10639
voluntary dissolution of a domestic or foreign qualifying entity 10640
or electing pass-through entity does not exempt it from the 10641
requirements to make reports as required under sections 5747.42 10642
to 5747.44 or to pay the taxes imposed under section 5733.41, 10643

5747.38, or 5747.41 of the Revised Code. If any qualifying 10644
entity or electing pass-through entity subject to the taxes 10645
imposed under section 5733.41, 5747.38, or 5747.41 of the 10646
Revised Code sells its business or stock of merchandise or quits 10647
its business, the taxes required to be paid prior to that time, 10648
together with any interest or penalty thereon, become due and 10649
payable immediately, and the entity shall make a final return 10650
within fifteen days after the date of selling or quitting 10651
business. The successor of the qualifying entity or electing 10652
pass-through entity shall withhold a sufficient amount of the 10653
purchase money to cover the amount of such taxes, interest, and 10654
penalties due and unpaid until the entity produces a receipt 10655
from the tax commissioner showing that the taxes, interest, and 10656
penalties have been paid, or a certificate indicating that no 10657
taxes are due. If the purchaser of the business or stock of 10658
goods fails to withhold purchase money, the purchaser is 10659
personally liable for the payment of the taxes, interest, and 10660
penalties accrued and unpaid during the operation of the 10661
business by the entity. If the amount of those taxes, interest, 10662
and penalty unpaid at the time of the purchase exceeds the total 10663
purchase money, the tax commissioner may adjust the entity's 10664
liability for those taxes, interest, and penalty, or adjust the 10665
responsibility of the purchaser to pay that liability, in a 10666
manner calculated to maximize the collection of those 10667
liabilities. 10668

(B) Annually, on the last day of each qualifying taxable 10669
year of a qualifying entity or taxable year of an electing pass- 10670
through entity, the taxes imposed under section 5733.41, 10671
5747.38, or 5747.41 of the Revised Code, together with any 10672
penalties subsequently accruing thereon, become a lien on all 10673
property in this state of the entity, whether such property is 10674

employed by the entity in the prosecution of its business or is 10675
in the hands of an assignee, trustee, or receiver for the 10676
benefit of the entity's creditors and investors. The lien shall 10677
continue until those taxes, together with any penalties 10678
subsequently accruing, are paid. 10679

Upon failure of such a qualifying entity or an electing 10680
pass-through entity to pay those taxes on the day fixed for 10681
payment, ~~the treasurer of state shall thereupon notify the tax-~~ 10682
~~commissioner, and the tax commissioner may file,~~ in the office 10683
of the county recorder in each county in this state in which the 10684
entity owns or has a beneficial interest in real estate, notice 10685
of the lien containing a brief description of such real estate. 10686
No fee shall be charged for such a filing. The lien is not valid 10687
as against any mortgagee, purchaser, or judgment creditor whose 10688
rights have attached prior to the time the notice is so filed in 10689
the county in which the real estate which is the subject of such 10690
mortgage, purchase, or judgment lien is located. The notice 10691
shall be recorded in the official records kept by the county 10692
recorder and indexed under the name of the entity charged with 10693
the tax. When the tax, together with any penalties subsequently 10694
accruing thereon, have been paid, the tax commissioner shall 10695
furnish to the entity an acknowledgment of such payment that the 10696
entity may record with the county recorder of each county in 10697
which notice of such lien has been filed, for which recording 10698
the county recorder shall charge and receive a fee of two 10699
dollars. 10700

(C) In addition to all other remedies for the collection 10701
of any taxes or penalties due under law, whenever any taxes, 10702
interest, or penalties due from any qualifying entity or 10703
electing pass-through entity under section 5733.41 of the 10704
Revised Code or this chapter have remained unpaid for a period 10705

of ninety days, or whenever any qualifying entity or electing 10706
pass-through entity has failed for a period of ninety days to 10707
make any report or return required by law, or to pay any penalty 10708
for failure to make or file such report or return, the attorney 10709
general, upon the request of the tax commissioner, shall file a 10710
petition in the court of common pleas in the county of the state 10711
in which such entity has its principal place of business for a 10712
judgment for the amount of the taxes, interest, or penalties 10713
appearing to be due, the enforcement of any lien in favor of the 10714
state, and an injunction to restrain such entity and its 10715
officers, directors, and managing agents from the transaction of 10716
any business within this state, other than such acts as are 10717
incidental to liquidation or winding up, until the payment of 10718
such taxes, interest, and penalties, and the costs of the 10719
proceeding fixed by the court, or the making and filing of such 10720
report or return. 10721

The petition shall be in the name of the state. Any of the 10722
qualifying entities or electing pass-through entities having its 10723
principal places of business in the county may be joined in one 10724
suit. On the motion of the attorney general, the court of common 10725
pleas shall enter an order requiring all defendants to answer by 10726
a day certain, and may appoint a special master commissioner to 10727
take testimony, with such other power and authority as the court 10728
confers, and permitting process to be served by registered mail 10729
and by publication in a newspaper of general circulation in the 10730
county, which publication need not be made more than once, 10731
setting forth the name of each delinquent entity, the matter in 10732
which the entity is delinquent, the names of its officers, 10733
directors, and managing agents, if set forth in the petition, 10734
and the amount of any taxes, fees, or penalties claimed to be 10735
owing by the entity. 10736

All or any of the trustees or other fiduciaries, officers, 10737
directors, investors, beneficiaries, or managing agents of any 10738
qualifying entity or electing pass-through entity may be joined 10739
as defendants with such entity. 10740

If it appears to the court upon hearing that any 10741
qualifying entity or electing pass-through entity that is a 10742
party to the proceeding is indebted to the state for taxes 10743
imposed under section 5733.41, 5747.38, or 5747.41 of the 10744
Revised Code, or interest or penalties thereon, judgment shall 10745
be entered therefor with interest; and if it appears that any 10746
qualifying entity or electing pass-through entity has failed to 10747
make or file any report or return, a mandatory injunction may be 10748
issued against the entity, its trustees or other fiduciaries, 10749
officers, directors, and managing agents, enjoining them from 10750
the transaction of any business within this state, other than 10751
acts incidental to liquidation or winding up, until the making 10752
and filing of all proper reports or returns and until the 10753
payment in full of all taxes, interest, and penalties. 10754

If the trustees or other fiduciaries, officers, directors, 10755
investors, beneficiaries, or managing agents of a qualifying 10756
entity or an electing pass-through entity are not made parties 10757
in the first instance, and a judgment or an injunction is 10758
rendered or issued against the entity, those officers, 10759
directors, investors, or managing agents may be made parties to 10760
such proceedings upon the motion of the attorney general, and, 10761
upon notice to them of the form and terms of such injunction, 10762
they shall be bound thereby as fully as if they had been made 10763
parties in the first instance. 10764

In any action authorized by this division, a statement of 10765
the tax commissioner, or the secretary of state, when duly 10766

certified, shall be prima-facie evidence of the amount of taxes, 10767
interest, or penalties due from any qualifying entity or 10768
electing pass-through entity, or of the failure of any such 10769
entity to file with the commissioner or the secretary of state 10770
any report required by law, and any such certificate of the 10771
commissioner or the secretary of state may be required in 10772
evidence in any such proceeding. 10773

On the application of any defendant and for good cause 10774
shown, the court may order a separate hearing of the issues as 10775
to any defendant. 10776

The costs of the proceeding shall be apportioned among the 10777
parties as the court deems proper. 10778

The court in such proceeding may make, enter, and enforce 10779
such other judgments and orders and grant such other relief as 10780
is necessary or incidental to the enforcement of the claims and 10781
lien of the state. 10782

In the performance of the duties enjoined upon the 10783
attorney general by this division, the attorney general may 10784
direct any prosecuting attorney to bring an action, as 10785
authorized by this division, in the name of the state with 10786
respect to any delinquent qualifying entities or delinquent 10787
electing pass-through entities within the prosecuting attorney's 10788
county, and like proceedings and orders shall be had as if such 10789
action were instituted by the attorney general. 10790

(D) If any qualifying entity or electing pass-through 10791
entity fails to make and file the reports or returns required 10792
under this chapter, or to pay the penalties provided by law for 10793
failure to make and file such reports or returns for a period of 10794
ninety days after the time prescribed by this chapter, the 10795

attorney general, on the request of the tax commissioner, shall 10796
commence an action in quo warranto in the court of appeals of 10797
the county in which that entity has its principal place of 10798
business to forfeit and annul its privileges and franchises. If 10799
the court is satisfied that any such entity is in default, it 10800
shall render judgment ousting such entity from the exercise of 10801
its privileges and franchises within this state, and shall 10802
otherwise proceed as provided in sections 2733.02 to 2733.39 of 10803
the Revised Code. 10804

Sec. 5815.26. (A) As used in this section: 10805

(1) "Fiduciary" means a trustee under any testamentary, 10806
inter vivos, or other trust, an executor or administrator, or 10807
any other person who is acting in a fiduciary capacity for a 10808
person, trust, or estate. 10809

(2) "Short term trust-quality investment fund" means a 10810
short term investment fund that meets both of the following 10811
conditions: 10812

(a) The fund may be either a collective investment fund 10813
established pursuant to section 1111.14 of the Revised Code or a 10814
registered investment company, including any affiliated 10815
investment company whether or not the fiduciary has invested 10816
other funds held by it in an agency or other nonfiduciary 10817
capacity in the securities of the same registered investment 10818
company or affiliated investment company. 10819

(b) The fund is invested in any one or more of the 10820
following manners: 10821

(i) In obligations of the United States or of its 10822
agencies; 10823

(ii) In obligations of one or more of the states of the 10824

United States or their political subdivisions;	10825
(iii) In variable demand notes, corporate money market instruments including, but not limited to, commercial paper rated at the time of purchase in either of the two highest classifications established by at least one nationally recognized standard - <u>statistical</u> rating service <u>organization</u> ;	10826 10827 10828 10829 10830
(iv) In deposits in banks or savings and loan associations whose deposits are insured by the federal deposit insurance corporation, if the rate of interest paid on such deposits is at least equal to the rate of interest generally paid by such banks or savings and loan associations on deposits of similar terms or amounts;	10831 10832 10833 10834 10835 10836
(v) In fully collateralized repurchase agreements or other evidences of indebtedness that are of trust quality and are payable on demand or have a maturity date consistent with the purpose of the fund and the duty of fiduciary prudence.	10837 10838 10839 10840
(3) "Registered investment company" means any investment company that is defined in and registered under sections 3 and 8 of the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8.	10841 10842 10843 10844
(4) "Affiliated investment company" has the same meaning as in division (E) (1) of section 1111.10 of the Revised Code.	10845 10846
(B) A fiduciary is not required to invest cash that belongs to the trust and may hold that cash for the period prior to distribution if either of the following applies:	10847 10848 10849
(1) The fiduciary reasonably expects to do either of the following:	10850 10851
(a) Distribute the cash to beneficiaries of the trust on a	10852

quarterly or more frequent basis; 10853

(b) Use the cash for the payment of debts, taxes, or 10854
expenses of administration within the ninety-day period 10855
following the receipt of the cash by the fiduciary. 10856

(2) Determined on the basis of the facilities available to 10857
the fiduciary and the amount of the income that reasonably could 10858
be earned by the investment of the cash, the amount of the cash 10859
does not justify the administrative burden or expense associated 10860
with its investment. 10861

(C) If a fiduciary wishes to hold funds that belong to the 10862
trust in liquid form and division (B) of this section does not 10863
apply, the fiduciary may so hold the funds as long as they are 10864
temporarily invested as described in division (D) of this 10865
section. 10866

(D) (1) A fiduciary may make a temporary investment of cash 10867
that may be held uninvested in accordance with division (B) of 10868
this section, and shall make a temporary investment of funds 10869
held in liquid form pursuant to division (C) of this section, in 10870
any of the following investments, unless the governing 10871
instrument provides for other investments in which the temporary 10872
investment of cash or funds is permitted: 10873

(a) A short term trust-quality investment fund; 10874

(b) Direct obligations of the United States or of its 10875
agencies; 10876

(c) A deposit with a bank or savings and loan association, 10877
including a deposit with the fiduciary itself or any bank 10878
subsidiary corporation owned or controlled by the bank holding 10879
company that owns or controls the fiduciary, whose deposits are 10880
insured by the federal deposit insurance corporation, if the 10881

rate of interest paid on that deposit is at least equal to the 10882
rate of interest generally paid by that bank or savings and loan 10883
association on deposits of similar terms or amounts. 10884

(2) A fiduciary that makes a temporary investment of cash 10885
or funds pursuant to division (D)(1) of this section may charge 10886
a reasonable fee for the services associated with that 10887
investment. The fee shall be in addition to the compensation to 10888
which the fiduciary is entitled for his ordinary fiduciary 10889
services. 10890

(3) Fiduciaries that make one or more temporary 10891
investments of cash or funds pursuant to division (D)(1) of this 10892
section shall provide to the beneficiaries of the trusts 10893
involved, that are currently receiving income or have a right to 10894
receive income, a written disclosure of their temporary 10895
investment practices and, if applicable, the method of computing 10896
reasonable fees for their temporary investment services pursuant 10897
to division (D)(2) of this section. Fiduciaries may comply with 10898
this requirement in any appropriate written document, including, 10899
but not limited to, any periodic statement or account. 10900

(4) A fiduciary that makes a temporary investment of cash 10901
or funds in an affiliated investment company pursuant to 10902
division (D)(1)(a) of this section shall, when providing any 10903
periodic account statements of its temporary investment 10904
practices, report the net asset value of the shares comprising 10905
the investment in the affiliated investment company. 10906

(5) If a fiduciary that makes a temporary investment of 10907
cash or funds in an affiliated investment company pursuant to 10908
division (D)(1)(a) of this section invests in any mutual fund, 10909
the fiduciary shall provide to the beneficiaries of the trust 10910
involved, that are currently receiving income or have a right to 10911

receive income, a written disclosure, in at least ten-point boldface type, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government agency or government-sponsored agency of the federal government or of this state.

Sec. 5815.37. (A) If any interest in real property held by any trustee of an express trust that is wholly or partially governed by a law of this state or any interest in real property located in this state that is held by the trustee of a trust wholly governed by the law of one or more jurisdictions other than this state is temporarily conveyed to any beneficiary of that trust and reconveyed back to any trustee of that trust, the interest in the real property shall be subject to divisions (B) and (C) of this section if all of the following apply:

(1) That temporary conveyance is for the principal purpose of enabling some or all of that interest in the real property to be used as collateral in a loan transaction.

(2) The loan proceeds will be delivered to the trustee of the trust or will otherwise be principally used for the benefit of one or more beneficiaries of the trust.

(3) The interest in the real property is reconveyed back to one or more trustees of the trust within a reasonable time after the reconveying beneficiary acquired actual notice that the lender has perfected the lender's collateral rights in and to the interest in the real property.

(4) The lender in question is any of the following:

(a) A bank, thrift, savings bank, savings and loan association, credit union, or any other similar financial institution if the activities of the other similar financial

institution are subject to supervision by the Ohio 10941
superintendent of financial institutions, the federal deposit 10942
insurance corporation, the comptroller of the currency, ~~the~~ 10943
~~office of thrift supervision,~~ any other comparable state or 10944
federal regulatory agency or entity, or a successor of any of 10945
them; 10946

(b) An insurance company subject to supervision by the 10947
Ohio department of insurance or any comparable agency 10948
established by the law of any other jurisdiction; 10949

(c) Any other corporation, limited liability company, 10950
partnership, or other similar or comparable entity the routine 10951
and regular business activities of which commonly include the 10952
making of commercial or residential loans that are wholly or 10953
partially secured by real property. 10954

(B) If a temporary conveyance and reconveyance of an 10955
interest in real property is made for the principal purpose of 10956
allowing a lender to acquire, perfect, foreclose on, or exercise 10957
collateral rights in and to the real property interest in 10958
question, the temporary conveyance to a beneficiary shall be 10959
disregarded for all other purposes, and the reconveyance back to 10960
a trustee shall relate back to the date immediately preceding 10961
that reconveyance on which the interest in the real property was 10962
transferred to any trustee of the trust in a transaction other 10963
than a loan transaction described in division (A)(1) of this 10964
section. 10965

(C) In connection with any temporary conveyance and 10966
reconveyance of an interest in real property pursuant to 10967
division (A) of this section, the following shall survive 10968
unimpaired after any reconveyance back to a trustee made 10969
pursuant to division (A)(3) of this section: 10970

(1) The rights, duties, and obligations of a lender under the documents governing the loan transaction, including, but not limited to, any of the following to the extent they are provided for in those documents:

(a) A lender's collateral rights in and to any interest in real property that is reconveyed to a trustee;

(b) The lender's rights under any mortgage, deed of trust, lien, encumbrance, or any other similar or comparable instrument or arrangement used to give the lender collateral rights in and to the interest being reconveyed, including, but not limited to, a lender's right to foreclose on that interest in real property;

(c) The lender's obligations to make loans or advances or to provide any person with any notice called for by the documents governing the loan transaction.

(2) The rights, duties, and obligations of any debtor under any documents governing the loan transaction, including, but not limited to, the following to the extent they are provided for in those documents:

(a) The duty to repay the lender or any other person who is entitled to receive payments under the documents governing the loan transaction;

(b) The duty to honor any agreements or covenants made by the debtor in the documents governing the loan transaction;

(c) The right to receive any advances, loans, notices, or other benefits called for by the documents governing the loan transaction.

(D) The following apply for purposes of division (A) (1) of this section:

(1) A court shall liberally construe the temporary conveyance to a beneficiary of the trust in question in determining whether the principal purpose of the temporary conveyance is to enable some or all of the interest in the real property to be used as collateral in a loan transaction.

(2) An interest in real property shall be considered to be used as collateral if, as part of a lending transaction, that interest is wholly or partially made subject to a mortgage, deed of trust, lien, encumbrance, or any other similar or comparable instrument or arrangement used to give the lender collateral rights in and to that interest.

(E) A court shall liberally construe division (A) (2) of this section in determining whether the loan proceeds referred to in that division will be principally used for the benefit of one or more beneficiaries of the trust in question.

(F) For purposes of division (A) (3) of this section, any reconveyance to a trustee shall be considered to have occurred within a reasonable time if it is made within one hundred twenty days of the date on which the reconveying beneficiary acquired actual notice that the lender has perfected the lender's collateral rights in and to the interest in the real property. In all other cases, a court shall consider all relevant facts and circumstances in determining whether a beneficiary has reconveyed the interest in the real property back to a trustee within a reasonable time after the reconveying beneficiary acquired that actual notice.

(G) (1) A court shall liberally construe division (A) (4) of this section in determining whether a corporation, limited liability company, partnership, or other similar or comparable entity qualifies as a lender within the meaning of that

division. 11029

(2) Subject to the rule of liberal interpretation set 11030
forth in division (G)(1) of this section, the Ohio 11031
superintendent of financial institutions may from time to time 11032
issue regulations setting forth a nonexhaustive list of entities 11033
that qualify as a lender within the meaning of division (A)(4) 11034
of this section and also may from time to time issue regulations 11035
setting forth specific entities or classes of entities that do 11036
not qualify as a lender within the meaning of that division. 11037

(H) An interest in real property may be subject to or 11038
involved in more than one loan transaction undertaken pursuant 11039
to this section. 11040

Section 2. That existing sections 113.05, 113.11, 113.12, 11041
113.40, 113.41, 113.60, 125.30, 125.901, 126.06, 127.14, 129.06, 11042
129.09, 131.01, 135.01, 135.02, 135.04, 135.05, 135.06, 135.08, 11043
135.10, 135.12, 135.14, 135.142, 135.143, 135.15, 135.182, 11044
135.31, 135.35, 135.45, 135.46, 135.47, 718.01, 1111.04, 11045
1112.12, 1315.54, 1345.01, 1501.10, 1503.05, 1509.07, 1509.225, 11046
1514.04, 1514.05, 1521.061, 1548.06, 1733.04, 1733.24, 1735.03, 11047
2109.37, 2109.372, 2109.44, 3314.50, 3366.05, 3737.945, 3903.73, 11048
3905.32, 3916.01, 3925.26, 4141.241, 4505.06, 4509.101, 4509.45, 11049
4509.62, 4509.63, 4509.65, 4509.67, 4710.03, 4749.01, 4763.13, 11050
5725.17, 5725.22, 5727.25, 5727.31, 5727.311, 5727.42, 5727.47, 11051
5727.53, 5727.81, 5727.811, 5727.82, 5727.83, 5733.022, 5735.03, 11052
5735.062, 5739.031, 5739.032, 5739.07, 5743.05, 5743.051, 11053
5743.15, 5745.03, 5745.04, 5745.041, 5747.059, 5747.07, 11054
5747.072, 5747.42, 5747.44, 5747.451, 5815.26, and 5815.37 of 11055
the Revised Code are hereby repealed. 11056

Section 3. That sections 113.061, 113.07, 129.02, 129.03, 11057
129.08, 129.10, 129.11, 129.12, 129.13, 129.14, 129.15, 129.16, 11058

129.18, 129.19, 129.20, 129.72, 129.73, 129.74, 129.75, 129.76, 11059
135.101, 135.102, 135.103, 135.104, 135.105, 135.106, 135.61, 11060
135.62, 135.63, 135.64, 135.65, 135.66, 135.67, 135.68, 135.69, 11061
135.70, 135.71, 135.72, 135.73, 135.74, 135.75, 135.76, 135.77, 11062
135.771, 135.772, 135.773, 135.774, 135.78, 135.79, 135.791, 11063
135.792, 135.793, 135.794, 135.795, 135.796, 135.81, 135.82, 11064
135.83, 135.84, 135.85, 135.86, 135.87, 135.91, 135.92, 135.93, 11065
135.94, 135.95, 135.96, 135.97, 144.01, 144.02, 144.03, 144.04, 11066
144.05, 144.06, and 144.07 of the Revised Code are hereby 11067
repealed. 11068

Section 4. Notwithstanding any other provision of the 11069
Revised Code to the contrary, the public depositories designated 11070
and awarded the public moneys of the state under division (A) of 11071
section 135.12 of the Revised Code for the period commencing on 11072
or around July 4, 2022, shall be the designated public 11073
depositories for a total of three years commencing from that 11074
applicable date. 11075

Section 5. Notwithstanding section 5743.15 of the Revised 11076
Code, any license issued under division (B), (C), or (F) of that 11077
section that is active on the effective date of the amendment by 11078
this act of that section remains valid until June 1, 2024, 11079
rather than May 27, 2024. 11080

Section 6. The amendment by this act of division (E) of 11081
section 5747.07 of the Revised Code applies to filings and 11082
payments due on or after January 1, 2024. 11083

Section 7. The General Assembly, applying the principle 11084
stated in division (B) of section 1.52 of the Revised Code that 11085
amendments are to be harmonized if reasonably capable of 11086
simultaneous operation, finds that the following sections, 11087
presented in this act as composites of the sections as amended 11088

by the acts indicated, are the resulting versions of the 11089
sections in effect prior to the effective date of the sections 11090
as presented in this act: 11091

Section 135.142 of the Revised Code as amended by both 11092
H.B. 197 and S.B. 276 of the 133rd General Assembly. 11093

Section 718.01 of the Revised Code as amended by both H.B. 11094
228 and S.B. 217 of the 134th General Assembly and both H.B. 197 11095
and S.B. 276 of the 133rd General Assembly. 11096

Section 4509.101 of the Revised Code as amended by both 11097
H.B. 62 and H.B. 158 of the 133rd General Assembly. 11098