

As Passed by the Senate

134th General Assembly

Regular Session

2021-2022

Sub. S. B. No. 199

Senator Blessing

Cosponsors: Senators Manning, Cirino, Reineke, Rulli, Thomas, Yuko

A BILL

To amend sections 517.23, 517.24, 517.25, 2107.52, 1
2108.82, 2111.18, 2117.06, 2117.07, and 2131.09 2
and to enact sections 2131.14, 5801.20, 5801.21, 3
5801.22, 5801.23, and 5801.24 of the Revised 4
Code to make changes to the law related to the 5
disinterment of bodies buried in cemeteries, 6
presentment of claims against an estate, non- 7
probate transfers of tangible personal property, 8
Guardianship Law, and the Ohio Trust Law. 9

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

Section 1. That sections 517.23, 517.24, 517.25, 2107.52, 10
2108.82, 2111.18, 2117.06, 2117.07, and 2131.09 be amended and 11
sections 2131.14, 5801.20, 5801.21, 5801.22, 5801.23, and 12
5801.24 of the Revised Code be enacted to read as follows: 13

Sec. 517.23. (A) Subject to divisions (B), (D), and (E) of 14
this section, the board of township trustees, the trustees or 15
directors of a cemetery association, or the other officers 16
having control and management of a cemetery or the officer of a 17
municipal corporation who has control and management of a 18

municipal cemetery shall disinter or grant permission to 19
disinter any remains buried in the cemetery in either of the 20
following circumstances: 21

~~(1) If the surviving spouse of the decedent is eighteen~~ 22
~~years of age or older, within~~ Within thirty days after the 23
~~filing of an application of the surviving spouse made for~~ 24
disinterment is filed with the cemetery in accordance with 25
division (A) of section 517.24 of the Revised Code and payment 26
~~by the applicant~~ of the reasonable costs and expense of 27
disinterment, is made by the following applicants: 28

(a) A designated representative, or successor, to whom the 29
decedent had assigned the right of disposition in a written 30
declaration pursuant to section 2108.70 of the Revised Code and 31
who had exercised such right at the time of the declarant's 32
death; 33

(b) If no designated representative exercised the right of 34
disposition pursuant to section 2108.70 of the Revised Code, the 35
surviving spouse of the decedent who is eighteen years of age or 36
older. 37

(2) On order of a probate court issued under division (B) 38
of section 517.24 of the Revised Code and payment by the person 39
who applied for the order under that division of the reasonable 40
costs and expense of disinterment. 41

(B) No disinterment shall be made pursuant to this section 42
and section 517.24 of the Revised Code if the decedent died of a 43
contagious or infectious disease until a permit has been issued 44
by the board of health of a general health district or of a city 45
health district. 46

(C) Upon disinterment of remains under division (A) (1) or 47

(2) of this section, the involved board, trustees, directors, 48
other officers, or officer of the municipal corporation shall 49
deliver or cause to be delivered the disinterred remains to the 50
applicant ~~surviving spouse~~ under division (A) (1) of this section 51
or, if the disinterment was pursuant to court order issued under 52
division (B) of section 517.24 of the Revised Code, to the 53
person who applied for the order under that division. 54

(D) The board of township trustees, the trustees or 55
directors of a cemetery association, or the other officers 56
having control and management of a cemetery or the officer of a 57
municipal corporation who has control and management of a 58
municipal cemetery may disinter or grant permission to disinter 59
and, if appropriate, may reinter or grant permission to reinter 60
any remains buried in the cemetery to correct an interment error 61
in the cemetery if the board, trustees, directors, other 62
officers, or officer of the municipal corporation comply with 63
the internal rules of the cemetery pertaining to disinterments 64
and if the board, trustees, directors, other officers, or 65
officer of the municipal corporation provide notice of the 66
disinterment to the ~~decedent's last known next of kin~~ person who 67
has been assigned or reassigned the rights of disposition for 68
the deceased person under the provisions of section 2108.70 or 69
2108.81 of the Revised Code. The board, trustees, directors, 70
other officers, or officer of the municipal corporation may 71
correct an interment error under this division without a court 72
order or an application by a person. 73

(E) (1) A person who is an interested party and who is 74
eighteen years of age or older and of sound mind may apply to 75
the probate court of the county in which the decedent is buried 76
for an order to prevent the ~~decedent's surviving spouse~~ 77
applicant under division (A) (1) of this section from having the 78

remains of the decedent disinterred. An application to prevent 79
the disinterment of the remains of the decedent shall be in 80
writing, subscribed and verified by oath, and include all of the 81
following: 82

(a) If applicable, a statement that the applicant assumed 83
financial responsibility for the funeral and burial expenses of 84
the decedent; 85

(b) If division (E) (1) (a) of this section is inapplicable 86
relative to the applicant, a statement that the applicant did 87
not assume financial responsibility for the funeral and burial 88
expenses of the decedent; 89

(c) A statement that the applicant is eighteen years of 90
age or older and of sound mind; 91

(d) The relationship of the applicant to the decedent; 92

(e) A statement of the applicant's reasons to oppose the 93
disinterment of the remains of the decedent. 94

(2) An applicant for an order to prevent the disinterment 95
of the remains of the decedent under division (E) of this 96
section promptly shall give notice of the filing of the 97
application by certified mail, return receipt requested, to the 98
~~decedent's surviving spouse~~applicant under division (A) (1) of 99
this section. The notice shall indicate that the applicant has 100
filed an application for an order to prevent the disinterment of 101
the remains of the decedent. 102

(F) As used in this section and in section 517.24 of the 103
Revised Code: 104

(1) "Cemetery" and "interment" have the same meanings as 105
in section 1721.21 of the Revised Code. 106

(2) "Disinterment" means the recovery of human remains by exhumation, disinterment, or disinterment. "Disinterment" does not include the raising and lowering of remains to accommodate two interments within a single grave and does not include the repositioning of an outside burial container that encroaches an adjoining burial space.

Sec. 517.24. (A) An application by ~~a surviving spouse~~ an applicant for disinterment under section 517.23 of the Revised Code shall be in writing and shall state ~~that whether~~ the applicant is the designated representative to whom the decedent has assigned the right of disposition of the decedent's body in a written declaration pursuant to section 2108.70 of the Revised Code and exercised such right at the time of the declarant's death or, if none, the surviving spouse of the decedent, that the applicant is eighteen years of age or older and of sound mind, the disease of which the decedent died, and the place at which the remains shall be reinterred. ~~The application shall be subscribed and verified by oath~~ If the applicant is the designated representative to whom the decedent has assigned the right of disposition in a written declaration pursuant to section 2108.70 of the Revised Code, a copy of the declaration that appointed the applicant shall be attached to the application. If the applicant is the surviving spouse, the application shall state one of the following:

(1) That to the best of the applicant's knowledge the decedent did not sign a declaration of assignment pursuant to section 2108.72 of the Revised Code or it is not available to the applicant;

(2) That to the best of the applicant's knowledge the assignee pursuant to a declaration of assignment pursuant to

section 2108.72 of the Revised Code did not exercise the right 137
of disposition. 138

(B) (1) A person who is eighteen years of age or older and 139
of sound mind and who is not ~~the surviving spouse of the~~ 140
~~decedent involved~~ qualified to file an application to disinter 141
pursuant to division (A) (1) of section 517.23 of the Revised 142
Code may obtain a court order under this division for the 143
disinterment of the remains of the decedent. Any person who is 144
eighteen years of age or older and of sound mind, including, but 145
not limited to, the person who assumed financial responsibility 146
for the funeral and burial expenses of the decedent, and who 147
wishes to obtain a court order for the disinterment of the 148
remains of the decedent may file an application in the probate 149
court of the county in which the decedent is buried requesting 150
the court to issue an order for the disinterment of the remains 151
of the decedent. The application shall be in writing, subscribed 152
and verified by oath, and include all of the following: 153

(a) If applicable, a statement that the applicant assumed 154
financial responsibility for the funeral and burial expenses of 155
the decedent; 156

(b) If division (B) (1) (a) of this section is inapplicable 157
relative to the applicant, a statement that the applicant did 158
not assume financial responsibility for the funeral and burial 159
expenses of the decedent; 160

(c) A statement that the applicant is eighteen years of 161
age or older and of sound mind; 162

(d) The relationship of the applicant to the decedent; 163

(e) A statement of the place at which the remains will be 164
reinterred; 165

(f) The name, the relationship to the decedent, and the address of the decedent's surviving spouse; of the person who has been assigned the rights of disposition for the deceased person under the provisions of sections 2108.70 to 2108.90 of the Revised Code; of all persons who would have been entitled to inherit from the decedent under Chapter 2105. of the Revised Code if the decedent had died intestate; and, if the decedent had a will, of all legatees and devisees named in the decedent's will;

(g) A true and correct copy of the decedent's written declaration of assignment pursuant to section 2108.70 of the Revised Code, if any, or one of the following:

(i) A statement that to the best of the applicant's knowledge the decedent did not sign a written declaration of assignment or it is not available to the applicant;

(ii) A statement that to the best of the applicant's knowledge the assignee pursuant to a declaration of assignment pursuant to section 2108.72 of the Revised Code did not exercise the right of disposition.

(2) (a) Subject to division (B) (2) (b) of this section, upon the filing of an application for an order for disinterment of remains under division (B) of this section, the applicant promptly shall give notice as described in this division by certified mail, return receipt requested, to the decedent's surviving spouse; to the person who has been assigned the rights of disposition for the deceased person under the provisions of sections 2108.70 to 2108.90 of the Revised Code; to all persons who would have been entitled to inherit from the decedent under Chapter 2105. of the Revised Code if the decedent had died intestate; if the decedent had a will, to all legatees and

devisees named in the decedent's will; and to the board of 196
township trustees, the trustees or directors of a cemetery 197
association, or the other officers having control and management 198
of the cemetery in which the remains of the decedent are 199
interred or to the officer of a municipal corporation who has 200
control and management of a municipal cemetery in which the 201
remains of the decedent are interred. The notice shall indicate 202
that an application for disinterment of the remains of the 203
decedent has been filed. 204

(b) A person entitled to be given the notice described in 205
division (B) (2) (a) of this section may waive the right to 206
receive the notice by filing a written waiver of that right in 207
the probate court. 208

(c) The fact that the notice required by division (B) (2) 209
(a) of this section has been given, subject to division (B) (2) 210
(d) of this section, to all persons described in division (B) (2) 211
(a) of this section who have not waived their right to receive 212
the notice and, if applicable, the fact that certain persons 213
described in that division have waived their right to receive 214
the notice in accordance with division (B) (2) (b) of this section 215
shall be evidenced by an affidavit of the applicant for the 216
order for disinterment, and the applicant shall file the 217
affidavit in the probate court. 218

(d) An applicant for an order for disinterment is not 219
required to give a notice pursuant to division (B) (2) (a) of this 220
section to persons whose names or places of residence are 221
unknown and cannot with reasonable diligence be ascertained, and 222
the applicant shall file an affidavit in the probate court 223
specifying any persons who were not given notice pursuant to 224
division (B) (2) (a) of this section and the reason for not giving 225

notice to those persons. 226

(3) (a) Except as otherwise provided in division (B) (3) (b) 227
of this section, upon the filing of an application for 228
disinterment of remains and the giving of the required notice 229
under division (B) (2) of this section, the probate court 230
promptly shall conduct a hearing to determine whether to issue 231
an order for disinterment of the remains of the decedent, taking 232
into account the provisions of section 2108.82 of the Revised 233
Code. ~~Except as otherwise provided in division (B) (3) (a) of this~~ 234
~~section, at the hearing, the court, in its discretion, may issue~~ 235
~~an order for disinterment of the decedent's remains if good~~ 236
~~cause for disinterment is shown. If a person who is an~~ 237
~~interested party and who is eighteen years of age or older and~~ 238
~~of sound mind establishes by a preponderance of the evidence at~~ 239
~~the hearing that the issuance of an order for disinterment of~~ 240
~~the decedent's remains under division (B) (3) of this section~~ 241
~~would be against the decedent's religious beliefs or~~ 242
~~ascertainable desires, the court shall not issue the requested~~ 243
~~order unless the court finds a compelling reason to issue it. If~~ 244
~~the court is not so prohibited from issuing the requested order~~ 245
~~and exercises its discretion to issue~~ issues the requested order 246
for disinterment of the decedent's remains in accordance with 247
division (B) (3) of this section, the court promptly shall 248
deliver the order to the applicant. An order of the court for 249
disinterment of the decedent's remains shall specify that the 250
board of township trustees, the trustees or board of the 251
cemetery association, or other officers having control and 252
management of the cemetery or the officer of a municipal 253
corporation who has control and management of the municipal 254
cemetery shall have a period of at least thirty days from the 255
receipt of the order to perform the ordered disinterment. 256

(b) The court is not required to conduct a hearing under 257
division (B) (3) (a) of this section if each person entitled to be 258
given the notice described in division (B) (2) (a) of this section 259
has waived that right by filing a written waiver of the right to 260
receive the notice in the probate court. 261

Sec. 517.25. If the board of township trustees, the 262
trustees or board of a cemetery association, or the other 263
officers in charge of a cemetery refuse to disinter or grant 264
permission for disinterment after a ~~surviving spouse person~~ 265
makes application under ~~sections~~ division (A) (1) of section 266
517.23 and or under division (B) (1) of section 517.24 of the 267
Revised Code, the probate court of the county in which the 268
decedent is buried shall issue a writ of mandamus requiring the 269
officers to disinter the remains or to grant permission for 270
their disinterment. 271

Sec. 2107.52. (A) As used in this section: 272

(1) "Class member" means an individual who fails to 273
survive the testator but who would have taken under a devise in 274
the form of a class gift had the individual survived the 275
testator. 276

(2) "Descendant of a grandparent" means an individual who 277
qualifies as a descendant of a grandparent of the testator or of 278
the donor of a power of appointment under either of the 279
following: 280

(a) The rules of construction applicable to a class gift 281
created in the testator's will if the devise or the exercise of 282
the power of appointment is in the form of a class gift; 283

(b) The rules for intestate succession if the devise or 284
the exercise of the power of appointment is not in the form of a 285

class gift.	286
(3) <u>(a) "Devise" means an includes a primary devise, an</u>	287
alternative devise, a devise in the form of a class gift, or <u>and</u>	288
an exercise of a power of appointment.	289
<u>(b) Except as otherwise provided in this division, the</u>	290
<u>amendment to division (A) (3) (a) of this section in this act</u>	291
<u>shall be given retroactive effect to the fullest extent</u>	292
<u>permitted under Ohio Constitution, Article II, Section 28. The</u>	293
<u>amendment shall not be given retroactive effect in those</u>	294
<u>instances where doing so would invalidate or supersede any</u>	295
<u>instrument that conveys real property or any interest in the</u>	296
<u>real property, recorded in the office of the county recorder in</u>	297
<u>which that real property is situated.</u>	298
(4) "Devisee" means any of the following:	299
(a) A class member if the devise is in the form of a class	300
gift;	301
(b) An individual or class member who was deceased at the	302
time the testator executed the testator's will or an individual	303
or class member who was then living but who failed to survive	304
the testator;	305
(c) An appointee under a power of appointment exercised by	306
the testator's will.	307
(5) "Per stirpes" means that the shares of the descendants	308
of a devisee who does not survive the testator are determined in	309
the same way they would have been determined under division (A)	310
of section 2105.06 of the Revised Code if the devisee had died	311
intestate and unmarried on the date of the testator's death.	312
(6) "Stepchild" means a child of the surviving, deceased,	313

or former spouse of the testator or of the donor of a power of appointment and not of the testator or donor. 314
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(7) "Surviving devisee" or "surviving descendant" means a devisee or descendant, whichever is applicable, who survives the testator by at least one hundred twenty hours. 316
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(8) "Testator" includes the donee of a power of appointment if the power is exercised in the testator's will. 319
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(B) (1) As used in "surviving descendants" in divisions (B) (2) (a) and (b) of this section, "descendants" means the descendants of a deceased devisee or class member under the applicable division who would take under a class gift created in the testator's will. 321
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(2) Unless a contrary intent appears in the will, if a devisee fails to survive the testator and is a grandparent, a descendant of a grandparent, or a stepchild of either the testator or the donor of a power of appointment exercised by the testator's will, either of the following applies: 326
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(a) If the devise is not in the form of a class gift and the deceased devisee leaves surviving descendants, a substitute gift is created in the devisee's surviving descendants. The surviving descendants take, per stirpes, the property to which the devisee would have been entitled had the devisee survived the testator. 331
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(b) If the devise is in the form of a class gift, other than a devise to "issue," "descendants," "heirs of the body," "heirs," "next of kin," "relatives," or "family," or a class described by language of similar import that includes more than one generation, a substitute gift is created in the surviving descendants of any deceased devisee. The property to which the 337
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devisees would have been entitled had all of them survived the 343
testator passes to the surviving devisees and the surviving 344
descendants of the deceased devisees. Each surviving devisee 345
takes the share to which the surviving devisee would have been 346
entitled had the deceased devisees survived the testator. Each 347
deceased devisee's surviving descendants who are substituted for 348
the deceased devisee take, per stirpes, the share to which the 349
deceased devisee would have been entitled had the deceased 350
devisee survived the testator. For purposes of division (B) (2) 351
(b) of this section, "deceased devisee" means a class member who 352
failed to survive the testator by at least one hundred twenty 353
hours and left one or more surviving descendants. 354

(C) For purposes of this section, each of the following 355
applies: 356

(1) Attaching the word "surviving" or "living" to a 357
devise, such as a gift "to my surviving (or living) children," 358
is not, in the absence of other language in the will or other 359
evidence to the contrary, a sufficient indication of an intent 360
to negate the application of division (B) of this section. 361

(2) Attaching other words of survivorship to a devise, 362
such as "to my child, if my child survives me," is, in the 363
absence of other language in the will or other evidence to the 364
contrary, a sufficient indication of an intent to negate the 365
application of division (B) of this section. 366

(3) A residuary clause is not a sufficient indication of 367
an intent to negate the application of division (B) of this 368
section unless the will specifically provides that upon lapse or 369
failure the nonresiduary devise, or nonresiduary devises in 370
general, pass under the residuary clause. 371

(4) Unless the language creating a power of appointment 372
expressly excludes the substitution of the descendants of an 373
appointee for the appointee, a surviving descendant of a 374
deceased appointee of a power of appointment may be substituted 375
for the appointee under this section, whether or not the 376
descendant is an object of the power of appointment. 377

(D) Except as provided in division (A), (B), or (C) of 378
this section, each of the following applies: 379

(1) A devise, other than a residuary devise, that fails 380
for any reason becomes a part of the residue. 381

(2) If the residue is devised to two or more persons, the 382
share of a residuary devisee that fails for any reason passes to 383
the other residuary devisee, or to other residuary devisees in 384
proportion to the interest of each in the remaining part of the 385
residue. 386

(3) If a residuary devise fails for any reason in its 387
entirety, the residue passes by intestate succession. 388

(E) This section applies only to outright devises and 389
appointments. Devises and appointments in trust, including to a 390
testamentary trust, are subject to section 5808.19 of the 391
Revised Code. 392

(F) This section applies to wills of decedents who die on 393
or after March 22, 2012. 394

Sec. 2108.82. (A) Notwithstanding section 2108.81 of the 395
Revised Code and in accordance with division (B) of this 396
section, the probate court for the county in which the declarant 397
or deceased person resided at the time of death may, on its own 398
motion or the motion of another person, assign to any person the 399
right of disposition for a declarant or deceased person. 400

(B) In making a determination for purposes of division (A) 401
of this section and division (C) of section 2108.79 of the 402
Revised Code, the court shall consider the following: 403

(1) Whether evidence presented to, or in the possession of 404
the court, demonstrates that the person who is the subject of 405
the motion and the declarant or deceased person had a close 406
personal relationship; 407

(2) The reasonableness and practicality of any plans that 408
the person who is the subject of the motion may have for the 409
declarant's or deceased person's funeral, burial, cremation, ~~or~~ 410
final disposition, redisposition, or disinterment, including the 411
degree to which such plans allow maximum participation by all 412
persons who wish to pay their final respects to the deceased 413
person; 414

(3) The willingness of the person who is the subject of 415
the motion to assume the responsibility to pay for the 416
declarant's or deceased person's funeral, burial, cremation, ~~or~~ 417
final disposition, redisposition, or disinterment, and the 418
desires of that person; 419

(4) The convenience and needs of other ~~families~~ family 420
members and friends wishing to pay their final respects to the 421
declarant or deceased person; 422

(5) The express written desires of the declarant or 423
deceased person; 424

(6) The religious beliefs or other evidence of the desires 425
of the declarant or deceased person; 426

(7) The conduct of the persons involved in the proceedings 427
related to the circumstances concerning the deceased person, the 428
deceased person's estate, and other family members; 429

(8) The length of time that has elapsed since the original 430
or last disposition; 431

(9) Whether there is a change of circumstances, including, 432
but not limited to, any of the following: 433

(a) A change to the physical or environmental conditions 434
of the cemetery or other location of the deceased person's 435
bodily remains or the surrounding area; 436

(b) A change to the financial condition of the cemetery 437
operator or organization containing the deceased person's bodily 438
remains; 439

(c) A change related to the residence of the deceased 440
person's family members; 441

(d) A change to the burial arrangements for the deceased 442
person's family members. 443

A change of circumstances does not include a mere change 444
of the representative who has been assigned the right to direct 445
the disposition of the deceased person's bodily remains. 446

(C) There shall be no disinterment or other change of the 447
original or last disposition unless the court makes a finding of 448
compelling reasons based upon the factors listed in division (B) 449
of this section. 450

(D) Except to the extent considered under division (B) (3) 451
of this section, the following persons do not have a greater 452
claim to the right of disposition than such persons otherwise 453
have pursuant to law: 454

(1) A person who is willing to assume the responsibility 455
to pay for the declarant's or deceased person's funeral, burial, 456
cremation, or final disposition; 457

(2) The personal representative of the declarant or 458
deceased person. 459

Sec. 2111.18. If personal injury, damage to tangible or 460
intangible property, or damage or loss on account of personal 461
injury or damage to tangible or intangible property is caused to 462
a ward by wrongful act, neglect, or default that would entitle 463
the ward to maintain an action and recover damages for the 464
injury, damage, or loss, and when any ward is entitled to 465
maintain an action for damages or any other relief based on any 466
claim or is subject to any claim to recover damages or any other 467
relief based on any claim, the guardian of the estate of the 468
ward may adjust and settle the claim with the advice, approval, 469
and consent of the probate court. If it is proposed that a claim 470
be settled for the net amount of twenty-five thousand dollars or 471
less after payment of fees and expenses as allowed by the court, 472
the court, upon application by any suitable person whom the 473
court may authorize to receive and receipt for the settlement, 474
may authorize the settlement without the appointment of a 475
guardian and authorize the delivery of the moneys as provided in 476
section 2111.05 of the Revised Code. The court may authorize the 477
person receiving the moneys to execute a complete release on 478
account of the receipt. The payment shall be a complete and 479
final discharge of that claim. In the settlement, if the ward is 480
a minor, the parent or parents of the minor may waive all claim 481
for damages on account of loss of service of the minor, and that 482
claim may be included in the settlement. If the claimant is a 483
minor, records of proceedings pursuant to this section are not 484
subject to disclosure to any person who is not a party to the 485
settlement, or made available for publication or inspection, 486
except upon motion and show of good cause. 487

Sec. 2117.06. (A) All creditors having claims against an 488

estate, including claims arising out of contract, out of tort, 489
on cognovit notes, or on judgments, whether due or not due, 490
secured or unsecured, liquidated or unliquidated, shall present 491
their claims in one of the following manners: 492

(1) After the appointment of an executor or administrator 493
and prior to the filing of a final account or a certificate of 494
termination, in one of the following manners: 495

(a) To the executor or administrator, or to an attorney 496
who is identified as counsel for the executor or administrator 497
in the probate court records for the estate of the decedent, in 498
a writing; 499

(b) ~~To the executor or administrator in a writing, and to~~ 500
~~the probate court by filing in a copy of the writing with it that~~ 501
includes the probate court case number of the decedent's estate; 502

(c) In a writing ~~that is sent by ordinary mail addressed~~ 503
~~to the decedent and~~ that is actually received by the executor or 504
administrator, or by an attorney who is identified as counsel 505
for the executor or administrator in the probate court records 506
for the estate of the decedent, within the appropriate time 507
specified in division (B) of this section and without regard to 508
whom the writing is addressed. For purposes of this division, if 509
an executor or administrator is not a natural person, the 510
writing shall be considered as being actually received by the 511
executor or administrator only if the person charged with the 512
primary responsibility of administering the estate of the 513
decedent actually receives the writing within the appropriate 514
time specified in division (B) of this section. 515

(2) If the final account or certificate of termination has 516
been filed, in a writing to those distributees of the decedent's 517

estate who may share liability for the payment of the claim. 518

(B) Except as provided in section 2117.061 of the Revised 519
Code, all claims shall be presented within six months after the 520
death of the decedent, whether or not the estate is released 521
from administration or an executor or administrator is appointed 522
during that six-month period. Every claim presented shall set 523
forth the claimant's address. 524

(C) Except as provided in section 2117.061 of the Revised 525
Code, a claim that is not presented within six months after the 526
death of the decedent shall be forever barred as to all parties, 527
including, but not limited to, devisees, legatees, and 528
distributees. No payment shall be made on the claim and no 529
action shall be maintained on the claim, except as otherwise 530
provided in sections 2117.37 to 2117.42 of the Revised Code with 531
reference to contingent claims. 532

(D) In the absence of any prior demand for allowance, the 533
executor or administrator shall allow or reject all claims, 534
except tax assessment claims, within thirty days after their 535
presentation, provided that failure of the executor or 536
administrator to allow or reject within that time shall not 537
prevent the executor or administrator from doing so after that 538
time and shall not prejudice the rights of any claimant. Upon 539
the allowance of a claim, the executor or the administrator, on 540
demand of the creditor, shall furnish the creditor with a 541
written statement or memorandum of the fact and date of the 542
allowance. 543

(E) If the executor or administrator has actual knowledge 544
of a pending action commenced against the decedent prior to the 545
decedent's death in a court of record in this state, the 546
executor or administrator shall file a notice of the appointment 547

of the executor or administrator in the pending action within 548
ten days after acquiring that knowledge. If the administrator or 549
executor is not a natural person, actual knowledge of a pending 550
suit against the decedent shall be limited to the actual 551
knowledge of the person charged with the primary responsibility 552
of administering the estate of the decedent. Failure to file the 553
notice within the ten-day period does not extend the claim 554
period established by this section. 555

(F) This section applies to any person who is required to 556
give written notice to the executor or administrator of a motion 557
or application to revive an action pending against the decedent 558
at the date of the death of the decedent. 559

(G) Nothing in this section or in section 2117.07 of the 560
Revised Code shall be construed to reduce the periods of 561
limitation or periods prior to repose in section 2125.02 or 562
Chapter 2305. of the Revised Code, provided that no portion of 563
any recovery on a claim brought pursuant to that section or any 564
section in that chapter shall come from the assets of an estate 565
unless the claim has been presented against the estate in 566
accordance with Chapter 2117. of the Revised Code. 567

(H) Any person whose claim has been presented and has not 568
been rejected after presentment is a creditor as that term is 569
used in Chapters 2113. to 2125. of the Revised Code. Claims that 570
are contingent need not be presented except as provided in 571
sections 2117.37 to 2117.42 of the Revised Code, but, whether 572
presented pursuant to those sections or this section, contingent 573
claims may be presented in any of the manners described in 574
division (A) of this section. 575

(I) If a creditor presents a claim against an estate in 576
accordance with division (A) (1) (b) of this section, the probate 577

court shall not close the administration of the estate until 578
that claim is allowed or rejected. 579

(J) The probate court shall not require an executor or 580
administrator to make and return into the court a schedule of 581
claims against the estate. 582

(K) If the executor or administrator makes a distribution 583
of the assets of the estate pursuant to section 2113.53 of the 584
Revised Code and prior to the expiration of the time for the 585
presentation of claims as set forth in this section, the 586
executor or administrator shall provide notice on the account 587
delivered to each distributee that the distributee may be liable 588
to the estate if a claim is presented prior to the filing of the 589
final account and may be liable to the claimant if the claim is 590
presented after the filing of the final account up to the value 591
of the distribution and may be required to return all or any 592
part of the value of the distribution if a valid claim is 593
subsequently made against the estate within the time permitted 594
under this section. 595

Sec. 2117.07. An executor or administrator may accelerate 596
the bar against claims against the estate established by section 597
2117.06 of the Revised Code by giving written notice to a 598
potential claimant that identifies the decedent by name, states 599
the date of the death of the decedent, identifies the executor 600
or administrator by name and mailing address, and informs the 601
potential claimant that any claims the claimant may have against 602
the estate are required to be presented to the executor or 603
administrator in a writing in the manner provided in section 604
2117.06 of the Revised Code within the earlier of thirty days 605
after receipt of the notice by the potential claimant or six 606
months after the date of the death of the decedent. A claim of 607

that potential claimant that is not presented in the manner 608
provided by section 2117.06 of the Revised Code within the 609
earlier of thirty days after receipt of the notice by the 610
potential claimant or six months after the date of the death of 611
the decedent is barred by section 2117.06 of the Revised Code in 612
the same manner as if it was not presented within six months 613
after the date of the death of the decedent. 614

Sec. 2131.09. (A) A trust of real or personal property 615
created by an employer as part of a stock bonus plan, pension 616
plan, disability or death benefit plan, or profit-sharing plan, 617
for the benefit of some or all of the employees, to which 618
contributions are made by the employer or employees, or both, 619
for the purpose of distributing to the employees or their 620
beneficiaries the earnings or the principal, or both earnings 621
and principal, of the fund so held in trust is not invalid as 622
violating the rule against perpetuities, any other existing law 623
against perpetuities, or any law restricting or limiting the 624
duration of trusts; but the trust may continue for the time that 625
is necessary to accomplish the purposes for which it was 626
created. 627

The income arising from any trust within the 628
classifications mentioned in this division may be accumulated in 629
accordance with the terms of the trust for as long a time as is 630
necessary to accomplish the purposes for which the trust was 631
created, notwithstanding any law limiting the period during 632
which trust income may be accumulated. 633

No rule of law against perpetuities or the suspension of 634
the power of alienation of the title to property invalidates any 635
trust within the classifications mentioned in this division 636
unless the trust is terminated by decree of a court in a suit 637

instituted within two years after June 25, 1951. 638

(B) (1) No rule of law against perpetuities or suspension 639
of the power of alienation of the title to property, any other 640
existing law against perpetuities, or any law restricting or 641
limiting the duration of trusts shall apply with respect to any 642
interest in real or personal property held in trust if both of 643
the following apply: 644

(a) The instrument creating the trust specifically states 645
that the rule against perpetuities or the provisions of division 646
(A) of section 2131.08 of the Revised Code shall not apply to 647
the trust. 648

(b) The trustee has unlimited power, or one or more 649
persons have the unlimited power to direct the trustee or to 650
approve the trustee's decision, either to sell all trust assets 651
or to terminate the entire trust. 652

(2) Division (B) (1) of this section shall apply to the 653
interpretation of a testamentary or inter vivos trust instrument 654
that creates an interest in real or personal property in 655
relation to which one or more of the following conditions apply: 656

(a) The instrument creating the testamentary or inter 657
vivos trust is executed in this state. 658

(b) The sole trustee or one of the trustees is domiciled 659
in this state. 660

(c) The testamentary or inter vivos trust is administered 661
in this state or the situs of a substantial portion of the 662
assets subject to the testamentary portion of the testamentary 663
or inter vivos trust is in this state, even though some part or 664
all of those assets are physically deposited for safekeeping in 665
a state other than this state. 666

(d) The instrument creating the testamentary or inter vivos trust states that the law of this state is to apply. 667
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(3) Subject to division (C) of this section, division (B) of this section shall be effective with respect to all of the following: 669
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(a) An interest in real or personal property in trust created under the terms of a will of a decedent dying on or after March 22, 1999; 672
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(b) An interest in real or personal property created under the terms of an inter vivos or testamentary trust instrument executed on or after March 22, 1999; 675
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(c) An interest in real or personal property in trust created by the exercise of a general power of appointment on or after March 22, 1999; 678
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(d) An interest in real or personal property in trust created by the exercise of a nongeneral power of appointment over any portion of a trust that meets the requirements of division (B) of this section, but only if the date of creation of that nongeneral power of appointment is on or after ~~the effective date of this section~~ March 27, 2013. 681
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(C) The exercise of a nongeneral power of appointment granted over any portion of a trust to which the rule against perpetuities does not apply because the terms of the trust meet the requirements of division (B) of this section shall nevertheless be subject to section 2131.08 of the Revised Code, except that interests created pursuant to the exercise of a nongeneral power of appointment that has a date of creation on or after ~~the effective date of this section~~ March 27, 2013, shall be required to vest not later than one thousand years 687
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after the date of creation of that power. 696

(D) For purposes of this section, the instrument creating 697
a trust subject to a power reserved by the grantor to amend, 698
revoke, or terminate the trust shall include the original 699
instrument establishing the trust and all amendments to the 700
instrument made prior to the time at which the reserved power 701
expires by reason of the death of the grantor, by release of the 702
power, or otherwise. 703

(E) The amendment of division (B) (1) of this section and 704
divisions (D) and (F) of this section are intended to clarify 705
the provisions of divisions (B) and (C) of this section as 706
originally enacted and apply to trust instruments that are in 707
existence prior to, on, or after ~~the effective date of this~~ 708
~~section~~ March 22, 1999. 709

(F) For purposes of this section: 710

(1) "General power of appointment" means a power that is 711
exercisable in favor of the individual possessing the power, the 712
individual's estate, the individual's creditors, or the 713
creditors of the individual's estate other than either of the 714
following: 715

(a) A power that is limited by an ascertainable standard 716
as defined in section 5801.01 of the Revised Code; 717

(b) A power of withdrawal held by an individual, but only 718
to the extent that it does not exceed the amount specified in 719
section 2041(b) (2) or 2514(e) of the "Internal Revenue Code of 720
1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended. 721

(2) "Nongeneral power of appointment" means any power of 722
appointment that is not a general power of appointment. 723

(3) The "date of creation" of a nongeneral power of appointment created by the exercise of one or more powers of appointment, except by the exercise of a general power of appointment exercisable by deed, shall be the date of creation of the first of those powers of appointment to be exercised.

(4) "Exercisable by deed" has the same meaning as in section 2131.08 of the Revised Code.

Sec. 2131.14. (A) As used in this section:

(1) "Designate" or "designation in beneficiary form" means to designate, or the designation of, tangible personal property, with the intention to transfer ownership upon death of the present owner, to one or more persons, identified by name, as the transfer-on-death beneficiary or beneficiaries, who will become the owner or owners of the tangible personal property upon death of the present owner.

(2) "Motor vehicle" has the same meaning as in section 4505.01 of the Revised Code.

(3) "Person" means an individual, a corporation, an organization, a trust, or other legal entity.

(4) "Tangible personal property" means objects that may be touched and moved, including animals and property that is acquired after the execution of a designation in beneficiary form. "Tangible personal property" excludes money other than coin collections, or any registered or certificated tangible personal property such as motor vehicles, watercraft, and outboard motors.

(5) "Transfer-on-death beneficiary" or "beneficiaries" means a person or persons, identified by name, specified in a designation in beneficiary form who will become the owner or

<u>owners of the tangible personal property upon the death of the</u>	753
<u>present owner.</u>	754
<u>(6) "Transferring person" means any person that delivers</u>	755
<u>or conveys tangible personal property to a transfer-on-death</u>	756
<u>beneficiary or beneficiaries in accordance with a designation in</u>	757
<u>beneficiary form that satisfies the requirements of division (B)</u>	758
<u>of this section.</u>	759
<u>(7) "Watercraft" has the same meaning as in section</u>	760
<u>1548.01 of the Revised Code.</u>	761
<u>(B) A designation in beneficiary form shall:</u>	762
<u>(1) Be in writing;</u>	763
<u>(2) List all of the following:</u>	764
<u>(a) Contain a general statement of disposition of all</u>	765
<u>tangible personal property or describe the specific item or</u>	766
<u>items of tangible personal property;</u>	767
<u>(b) Identify a specified part of the interest to be</u>	768
<u>transferred, if less than the entire interest;</u>	769
<u>(c) State "transfer-on-death," "TOD," or any other words</u>	770
<u>or statements to indicate intent to transfer ownership of</u>	771
<u>tangible personal property upon the death of the present owner;</u>	772
<u>(d) Identify the name of the transfer-on-death beneficiary</u>	773
<u>or beneficiaries.</u>	774
<u>(3) Be dated;</u>	775
<u>(4) Be executed by the present owner and acknowledged</u>	776
<u>before a notary public.</u>	777
<u>(C) A designation in beneficiary form is not required to</u>	778
<u>be supported by any consideration or be delivered to the</u>	779

transfer-on-death beneficiary or beneficiaries in order for the 780
designation in beneficiary form to be effective. 781

(D) A designation in beneficiary form has no effect on the 782
ownership of the tangible personal property until the death of 783
the present owner. The present owner may revoke or change the 784
designation in beneficiary form at any time without the consent 785
of the transfer-on-death beneficiary or beneficiaries by a 786
subsequently executed designation in beneficiary form or by a 787
subsequently executed written instrument that is dated, executed 788
by the present owner, and acknowledged before a notary public. 789

(E) Upon the death of the present owner of tangible 790
personal property designated in beneficiary form, the ownership 791
of the tangible personal property shall pass to the transfer-on- 792
death beneficiary or beneficiaries who survive the deceased 793
owner or are in existence on the date of death of the deceased 794
owner. 795

(F) A designation in beneficiary form may include primary 796
and contingent transfer-on-death beneficiaries. 797

(G) If there are inconsistent designations in beneficiary 798
form, the most recent designation in beneficiary form controls. 799

(H) If no primary or contingent transfer-on-death 800
beneficiary or beneficiaries survive the deceased owner, the 801
tangible personal property shall be included in the probate 802
estate of the deceased owner. 803

(I) The recipient of tangible personal property that was 804
improperly distributed, pursuant to a designation in beneficiary 805
form, by a transferring person or otherwise, is liable to 806
deliver the improperly received tangible personal property to 807
the rightful beneficiary or beneficiaries. If a recipient who 808

improperly received the tangible personal property no longer has 809
the tangible personal property or has imposed an encumbrance on 810
the tangible personal property, the recipient is liable to 811
return the value of the property as of the date of disposition. 812

(J) The present owner, in making provision for a 813
nonprobate transfer under this section, gives to any 814
transferring person acting hereunder the protections provided in 815
this section for executing the present owner's designation in 816
beneficiary form. 817

(K) A transferring person may rely and act on a certified 818
or authenticated copy of a death certificate issued by an 819
official or agency of the place where the death occurred as 820
showing the fact, place, date, time of death, and identity of 821
the decedent, or a certified or authenticated copy of a report 822
or record of any governmental agency that a person is deceased. 823

(L) A transferring person has no duty to do any of the 824
following: 825

(1) Give notice to any person of the date, manner, and 826
persons to whom transfer will be made under the beneficiary 827
designation; 828

(2) Attempt to locate any beneficiary; 829

(3) Locate a trustee or custodian, obtain appointment of a 830
successor trustee or custodian, or discover the existence of a 831
trust instrument or will that creates an express trust; 832

(4) Determine any fact or law that would cause the 833
beneficiary designation to be revoked, in whole or in part, as 834
to any person or that would qualify or disqualify any person to 835
receive a share under the nonprobate transfer, or that would 836
vary the distribution provided in the beneficiary designation. 837

(M) If there is an issue or problem with respect to the 838
transfer of the tangible personal property to the transfer-on- 839
death beneficiary or beneficiaries, a transferring person has 840
the right to petition the probate court having jurisdiction with 841
respect to the deceased owner's estate for instructions. 842

(N) If, after the execution of a designation of 843
beneficiary form under which the present owner of the tangible 844
personal property's spouse is designated the transfer-on-death 845
beneficiary, the present owner of the tangible personal property 846
and the present owner's spouse are divorced, obtain a 847
dissolution of marriage, or have the marriage annulled, then the 848
designation of the present owner's spouse as a transfer-on-death 849
beneficiary shall be terminated and the spouse shall be deemed 850
to have predeceased the present owner of the tangible personal 851
property. 852

(O) A transfer by the transferring person, in accordance 853
with this section and pursuant to a beneficiary designation, in 854
good faith and in reliance on information the transferring 855
person reasonably believes to be accurate, discharges the 856
transferring person from all claims and liability for the 857
property transferred, regardless of any negligence in 858
determining the proper transferees. The remedy of the rightful 859
transferees of tangible personal property transferred under a 860
designation in beneficiary form executed in compliance with 861
division (B) of this section shall be limited to an action 862
against the improper transferees. 863

(P) This section does not preclude other methods of 864
transferring ownership of tangible personal property that are 865
permitted by law and have the effect of postponing enjoyment of 866
the tangible personal property until after the death of the 867

present owner. 868

Sec. 5801.20. As used in sections 5801.20 to 5801.24 of 869
the Revised Code: 870

(A) (1) "Applicable reporting period" means either of the 871
following, as applicable: 872

(a) The most recent four years, as of the date of 873
preparation of a notice authorized under division (B) of section 874
5801.22 or division (B) of section 5801.23 of the Revised Code; 875

(b) If the trust became irrevocable during such four-year 876
period, the period from the date the trust became irrevocable to 877
the date of preparation of the notice. 878

(2) If the trustee sending the notice accepted the 879
trusteeship during the period described in division (A) (1) of 880
this section, the "applicable reporting period" shall be from 881
the date of the trustee's acceptance to the date of preparation 882
of the notice. 883

(B) "Departing trustee" means a trustee who is resigning 884
or has been removed as trustee of a trust. 885

(C) "Distributions objection period" means a forty-five- 886
day period for providing the trustee of the noticing trust with 887
objections under division (D) of section 5801.22 of the Revised 888
Code. The period commences with the date the notice and 889
trustee's reports described in division (B) of section 5801.22 890
of the Revised Code are served on the recipient. 891

(D) "Noticing trust" means a trust whose trustee is 892
serving or has served a notice and trustee reports under section 893
5801.22 or 5801.23 of the Revised Code. 894

(E) "Resignation or removal necessary parties" means the 895

<u>following persons:</u>	896
<u>(1) In the case of a trustee resignation:</u>	897
<u>(a) If the trust terms identify one or more persons to</u>	898
<u>whom notice of the trustee's resignation must be provided, the</u>	899
<u>persons so identified and any other persons who are current</u>	900
<u>beneficiaries of the trust, determined as of the date of the</u>	901
<u>notice described in division (B) of section 5801.23 of the</u>	902
<u>Revised Code;</u>	903
<u>(b) If the trust terms do not identify any persons to whom</u>	904
<u>notice of the trustee's resignation must be provided, the</u>	905
<u>qualified beneficiaries of the trust, determined as of the date</u>	906
<u>of the notice described in division (B) of section 5801.23 of</u>	907
<u>the Revised Code.</u>	908
<u>(2) In the case of a trustee removal, the persons, if any,</u>	909
<u>to whom notice of trustee removal is required to be provided</u>	910
<u>under the trust terms and any other persons who are current</u>	911
<u>beneficiaries of the trust, determined as of the date of the</u>	912
<u>notice described in division (B) of section 5801.23 of the</u>	913
<u>Revised Code.</u>	914
<u>(3) Any co-trustee of the trust;</u>	915
<u>(4) The successor trustee if one has been appointed or</u>	916
<u>designated as provided in the trust terms or otherwise</u>	917
<u>appointed, as provided in division (C) of section 5807.04 of the</u>	918
<u>Revised Code or pursuant to other applicable law.</u>	919
<u>(F) "Successor trustee" means a person, not previously</u>	920
<u>serving as a co-trustee, who is to replace the departing trustee</u>	921
<u>following the departing trustee's resignation or removal.</u>	922
<u>(G) "Terminating distributions necessary parties" means:</u>	923

(1) The current beneficiaries of the trust, determined as 924
of the date of the notice described in division (B) of section 925
5801.22 of the Revised Code; 926

(2) If the trust-terminating distributions include one or 927
more mandatory distributions under the terms of the trust, all 928
other persons living at the date of the notice who were current 929
beneficiaries of the trust immediately prior to the triggering 930
event that is the basis for the mandatory distributions; 931

(3) Any co-trustee of the trust. 932

(H) "Triggering event" means any event, such as a death, 933
age attainment or other circumstance, that has occurred and that 934
is the basis for a mandatory distribution under the terms of the 935
trust. 936

(I) "Trust-terminating distributions" means distributions 937
that, when completed, will distribute the remaining net assets 938
of a trust and thereby effectively terminate the trust, 939
including any such distributions that are made pursuant to 940
section 5808.18 of the Revised Code or under any similar 941
statutory or common law applicable to the trust. 942

(J) "Trustee indemnification clause" means a provision 943
that indemnifies the trustee against loss arising from a claim 944
relating to the trustee's administration of the trust. 945

(K) "Trustee's report" means a report as described in 946
division (C) of section 5808.13 of the Revised Code. 947

(L) "Trustee succession objection period" means a forty- 948
five-day period for providing to the departing trustee 949
objections under division (D) of section 5801.23 of the Revised 950
Code. The period commences with the date the notice and 951
trustee's reports described in division (B) of section 5801.23 952

of the Revised Code are served on the recipient. 953

Sec. 5801.21. (A) A trustee may, but is not required to, 954
use the process prescribed in sections 5801.22 and 5801.23 of 955
the Revised Code, as applicable, when concluding the trustee's 956
administration of an irrevocable trust. 957

(B) Sections 5801.20 to 5801.24 of the Revised Code do not 958
apply to a testamentary trust subject to the supervision of a 959
probate court. 960

(C) Except as otherwise provided in the Revised Code or 961
other applicable law, including the common law, the provisions 962
of sections 5801.22 and 5801.23 of the Revised Code may be used 963
in combination with or in lieu of other options or proceedings 964
available under the Revised Code or other applicable law, 965
including the common law. 966

(D) A trustee's substantial good-faith compliance with the 967
requirements concerning the contents of the notices described in 968
division (B) of section 5801.22 and division (B) of section 969
5801.23 of the Revised Code is deemed sufficient. 970

Sec. 5801.22. (A) When a trust is to terminate as a result 971
of trust-terminating distributions and the trustee elects to use 972
the provisions of this section, the trustee shall serve on the 973
terminating distributions necessary parties the documents and 974
information described in division (B) of this section. The 975
trustee also may serve those documents and that information on 976
other persons who the trustee reasonably believes may have an 977
interest in the trust. Service shall be made within a reasonable 978
period of time after the event or determination that requires or 979
authorizes such distributions. 980

(B) The documents and information to be served include 981

<u>both of the following:</u>	982
<u>(1) A written notice, executed by or on behalf of the trustee, that includes the following information:</u>	983
<u>(a) The date of the notice, corresponding to the date the notice is being sent;</u>	984
<u>(b) A description of the terms of the trust that require or authorize the trust-terminating distributions or a citation to any statute that requires or authorizes the distributions;</u>	985
<u>(c) If the terms of the trust require any of the proposed trust-terminating distributions, a description of any triggering event that is the basis for each mandatory distribution;</u>	986
<u>(d) A description of the proposed trust-terminating distributions that includes the names of the proposed distributees and a description, in general or specific terms, of the assets proposed for distribution to each;</u>	987
<u>(e) A description of the distributions objection period and the name, mailing address, electronic address if available, and telephone number of the person or office associated with the trustee to which any written objections should be sent;</u>	988
<u>(f) A description of the process, described in division (C) of this section, that will be followed if the trustee receives no written objections within the distributions objection period;</u>	989
<u>(g) A description of the process, described in division (D) of this section, that will be followed if the trustee receives a written objection within the distributions objection period;</u>	990
<u>(h) A statement of the impending bar of claims against the</u>	991
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trustee, as described in division (F) of this section, that will 1010
result if an objection is not timely made; 1011

(i) A statement that the trustee may rely upon the written 1012
statement of a recipient of the notice that such person consents 1013
to the proposed trust-terminating distributions and irrevocably 1014
waives the right to object to the distributions and any claim 1015
against the trustee for matters disclosed in the notice or the 1016
trustee's reports served with it and all other matters 1017
pertaining to the trustee's administration of the trust; 1018

(j) A statement that the trustee may complete the 1019
distributions described in the notice prior to the expiration of 1020
the distributions objection period if all of the persons on whom 1021
the notice was served deliver to the trustee written consents 1022
and irrevocable waivers of the kind described in division (E) of 1023
this section; 1024

(k) An exhibit showing the assets on hand at the date the 1025
notice is prepared and their respective values as shown in the 1026
regularly kept records of the trustee; 1027

(l) An estimate of any assets, income, taxes, fees, 1028
expenses, claims, or other items reasonably expected by the 1029
trustee to be received or disbursed before completion of the 1030
trust-terminating distributions but not yet received or 1031
disbursed, including trustee fees remaining to be paid. 1032

(2) One or more trustee's reports covering the applicable 1033
reporting period. 1034

(C) If no written objection is received by the trustee 1035
within the distributions objection period: 1036

(1) The notice and trustee's reports served pursuant to 1037
division (A) of this section shall be considered approved by 1038

each recipient of the notice and reports; 1039

(2) The trustee, within a reasonable period of time 1040
following the expiration of the distributions objection period, 1041
shall distribute the assets as provided in the notice; 1042

(3) Any person who was served such notice and reports 1043
shall be barred from bringing a claim against the trustee, and 1044
from challenging the validity of the trust, as provided in 1045
division (F) of this section. 1046

(D) (1) If, after being served the notice and trustee's 1047
reports described in division (B) of this section, a qualified 1048
beneficiary or any other recipient of the notice wishes to 1049
object to matters disclosed in the notice or trustee's reports 1050
served, or any other matter pertaining to the trustee's 1051
administration of the trust, the person shall provide written 1052
notice of the objection to the trustee of the noticing trust 1053
within the distributions objection period. If the trustee 1054
receives a written objection within the distributions objection 1055
period, the trustee may do either of the following: 1056

(a) Submit the written objection to the court for 1057
resolution. The expense of commencing, conducting, and 1058
concluding such a proceeding shall be charged as ordered by the 1059
court. 1060

(b) (i) Resolve the objection with the objecting person by 1061
accepting a withdrawal of the person's objection or by written 1062
instrument, a written agreement as described in section 5801.10 1063
of the Revised Code, or other means. 1064

(ii) Any agreement or other written instrument executed by 1065
the objecting party pursuant to division (D) (1) (b) (i) of this 1066
section may include a release and a trustee indemnification 1067

clause, along with other terms agreed to by the parties. 1068
Reasonable expenses related to such written instrument or 1069
written agreement shall be charged to the trust. 1070

(2) Within a reasonable time after resolution of all 1071
timely objections under division (D)(1) of this section, the 1072
trustee shall distribute the remaining trust assets as provided 1073
in the notice, subject to any modifications provided for in the 1074
terms of the document setting forth the resolution of each such 1075
objection. 1076

(E)(1) The trustee may rely upon the written statement of 1077
a recipient of the notice and trustee's reports served under 1078
this section that the recipient: 1079

(a) Consents to the proposed trust-terminating 1080
distributions; 1081

(b) Irrevocably waives the right to object to the 1082
distributions; 1083

(c) Irrevocably waives any claims against the trustee for 1084
breach of trust as to matters disclosed in the notice and 1085
trustee's reports and all other matters pertaining to the 1086
trustee's administration of the trust. 1087

(2) The distributions described in the notice may be 1088
completed prior to the expiration of the distributions objection 1089
period if all of the persons on whom the notice and trustee's 1090
reports were served have delivered to the trustee similar 1091
written consents and irrevocable waivers. 1092

(F)(1)(a) Any person who was served a notice and trustee's 1093
reports that comply with the requirements of this section and 1094
who either consented to the proposed trust-terminating 1095
distributions or failed to timely provide the trustee a written 1096

objection as described in this section is barred from: 1097

(i) Bringing a claim against the trustee for breach of 1098
trust as to matters disclosed in the notice and trustee's 1099
reports and all other matters pertaining to the trustee's 1100
administration of the trust; 1101

(ii) Challenging the validity of the trust. 1102

Such claims shall be barred as described in division (F) 1103
(2) of this section. 1104

(b) If all of the terminating distributions necessary 1105
parties and all qualified beneficiaries of the trust have been 1106
served a notice and trustee's reports that comply with the 1107
requirements of this section and have either consented to the 1108
proposed trust-terminating distributions or failed to timely 1109
provide the trustee a written objection as described in this 1110
section, all other beneficiaries of the trust, including persons 1111
who may succeed to the interests in the trust of the 1112
beneficiaries served, shall be barred as described in division 1113
(F) (2) of this section. 1114

(2) The bar of claims under division (F) of this section 1115
applies: 1116

(a) To each person barred, the person's personal 1117
representatives and assigns, and the person's heirs who are not 1118
beneficiaries of the noticing trust; 1119

(b) To the same extent and with the same preclusive effect 1120
as if the court had entered a final order approving and settling 1121
the trustee's full account of its entire administration of the 1122
trust, notwithstanding the limitations periods otherwise 1123
applicable under section 5810.05 of the Revised Code. 1124

(G) Any beneficiary who receives trust assets as a result 1125
of a trust-terminating distribution described in the notice 1126
described in division (B) of this section and who is barred from 1127
bringing claims under division (F) of this section may be 1128
required to return all or any part of the value of the 1129
distributed assets if the trustee determines that the return of 1130
assets is necessary to pay, or reimburse the trustee for payment 1131
of, taxes, debts, or expenses of the trust, including reasonable 1132
expenses incurred by the trustee in obtaining the return of 1133
those assets. The beneficiary shall make the return 1134
expeditiously upon receipt of a written notice from the trustee 1135
requesting the return of all or any part of the value of those 1136
distributed assets. 1137

Sec. 5801.23. (A) When a trustee resigns or is removed 1138
from an irrevocable trust pursuant to the terms of the trust or 1139
otherwise and the departing trustee elects to use the provisions 1140
of this section, the departing trustee shall serve on the 1141
resignation or removal necessary parties the documents and 1142
information described in division (B) of this section. The 1143
trustee also may serve those documents and that information on 1144
other persons who the trustee reasonably believes may have an 1145
interest in the trust. Service shall be made within a reasonable 1146
period of time after such resignation or removal. 1147

(B) The documents and information to be served include all 1148
of the following: 1149

(1) A written notice, executed by or on behalf of the 1150
departing trustee, that includes all of the following 1151
information: 1152

(a) The date of the notice, corresponding to the date the 1153
notice is being sent; 1154

(b) A description of any terms of the trust or the Revised Code relevant to the resignation or removal of the departing trustee and the provisions, if applicable, regarding the appointment or designation of the successor trustee; 1155
1156
1157
1158

(c) A description of any actions taken by the departing trustee, the beneficiaries of the trust, or other required parties pertaining to the resignation or removal of the departing trustee and, if applicable, the appointment or designation of the successor trustee; 1159
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1161
1162
1163

(d) The name and address of the successor trustee, if one has been appointed or designated; 1164
1165

(e) If applicable, a statement confirming the successor trustee's acceptance of the trusteeship; 1166
1167

(f) A description of the trustee succession objection period and the name, mailing address, electronic mail address if available, and telephone number of the person or office associated with the departing trustee to which any written objections should be sent; 1168
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1170
1171
1172

(g) A description of the process, described in division (C) of this section, that will be followed if the departing trustee receives no written objections within the trustee succession objection period; 1173
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1175
1176

(h) A description of the process, described in division (D) of this section, that will be followed if the departing trustee receives a written objection within the trustee succession objection period; 1177
1178
1179
1180

(i) A statement of the impending bar of claims against the departing trustee, as described in division (F) of this section, that will result if an objection is not timely made; 1181
1182
1183

(j) A statement that the departing trustee may rely upon 1184
the written statement of a recipient of the notice that such 1185
person consents to the delivery of the net assets of the trust 1186
to the successor trustee, or to one or more co-trustees as 1187
applicable, and irrevocably waives the right to object to the 1188
delivery of the assets and any claim against the departing 1189
trustee for matters disclosed in the notice or the trustee's 1190
reports served with it and all other matters pertaining to the 1191
departing trustee's administration of the trust; 1192

(k) A statement that the departing trustee may complete 1193
the delivery of the net assets of the trust to the successor 1194
trustee, or to one or more co-trustees as applicable, prior to 1195
the expiration of the trustee succession objection period if all 1196
of the persons on whom the notice was served deliver to the 1197
trustee written consents and irrevocable waivers of the kind 1198
described in division (E) of this section; 1199

(l) An exhibit showing the assets on hand at the date the 1200
notice is prepared and their respective values as shown in the 1201
regularly kept records of the trustee; 1202

(m) An estimate of any assets, income, taxes, fees, 1203
expenses, claims, or other items reasonably expected by the 1204
departing trustee to be received or disbursed before delivery of 1205
the net assets of the trust to the successor trustee, or to one 1206
or more co-trustees as applicable, but not yet received or 1207
disbursed, including trustee fees remaining to be paid. 1208

(2) One or more trustee's reports covering the applicable 1209
reporting period. 1210

(C) If no written objection is received by the departing 1211
trustee within the trustee succession objection period: 1212

(1) The notice and trustee's reports served pursuant to 1213
division (A) of this section shall be considered approved by 1214
each recipient of the notice and reports. 1215

(2) The departing trustee, within a reasonable period of 1216
time following the expiration of the trustee succession 1217
objection period, shall deliver the net trust assets to the 1218
successor trustee or to one or more co-trustees, as applicable. 1219

(3) Any person who was served such notice and reports 1220
shall be barred from bringing a claim against the trustee, and 1221
from challenging the validity of the trust, as provided in 1222
division (F) of this section. 1223

(D) (1) If, after being served the notice and trustee's 1224
reports described in division (B) of this section, a qualified 1225
beneficiary or any other recipient of the notice wishes to 1226
object to matters disclosed in the notice or reports or any 1227
other matter pertaining to the departing trustee's 1228
administration of the trust, the person shall provide written 1229
notice of the objection to the departing trustee within the 1230
trustee succession objection period. If the departing trustee 1231
receives a written objection within the trustee succession 1232
objection period, the departing trustee may do either of the 1233
following: 1234

(a) Submit the written objection to the court for 1235
resolution. The expense of commencing, conducting, and 1236
concluding such a proceeding shall be charged as ordered by the 1237
court. 1238

(b) (i) Resolve the objection with the objecting person by 1239
accepting a withdrawal of the person's objection or by written 1240
instrument, a written agreement as described in section 5801.10 1241

of the Revised Code, or other means. 1242

(ii) Any agreement or other written instrument executed by 1243
the objecting party pursuant to division (D)(1)(b)(i) of this 1244
section may include a release and a trustee indemnification 1245
clause, along with other terms agreed to by the parties. 1246
Reasonable expenses related to such written instrument or 1247
written agreement shall be charged to the trust. 1248

(2) Within a reasonable time after resolution of all 1249
timely objections under division (D)(1) of this section, the 1250
departing trustee shall deliver the net trust assets to the 1251
successor trustee, or to one or more co-trustees as applicable, 1252
subject to any modifications provided for in the terms of the 1253
document setting forth the resolution of each such objection. 1254

(E)(1) The departing trustee may rely upon the written 1255
statement of a recipient of the notice and trustee's reports 1256
served under this section that the recipient consents to, and 1257
irrevocably waives the right to object to: 1258

(a) The departing trustee's resignation or removal; 1259

(b) The appointment of the successor trustee, if 1260
applicable; 1261

(c) Delivery of the net assets of the trust to the 1262
successor trustee or to one or more co-trustees, as applicable. 1263

(2) The statement shall also irrevocably waive any claims 1264
against the departing trustee for breach of trust as to matters 1265
disclosed in the notice and trustee's reports and all other 1266
matters pertaining to the departing trustee's administration of 1267
the trust. 1268

(3) The delivery of the net assets of the trust to the 1269

successor trustee, or to one or more co-trustees as applicable, 1270
may be completed prior to the expiration of the trustee 1271
succession objection period if all of the persons on whom the 1272
notice and trustee's reports were served have delivered to the 1273
departing trustee similar written consents and irrevocable 1274
waivers. 1275

(F) (1) Any person who was served a notice and trustee's 1276
reports that comply with the requirements of this section and 1277
who either consented to the delivery of the net assets of the 1278
trust to the successor trustee or one or more co-trustees as 1279
applicable or failed to timely provide the departing trustee a 1280
written objection as described in this section is barred from: 1281

(a) Bringing a claim against the departing trustee for 1282
breach of trust as to matters disclosed in the notice and 1283
trustee's reports and all other matters pertaining to the 1284
departing trustee's administration of the trust; 1285

(b) Challenging the validity of the trust. 1286

Such claims shall be barred as described in division (F) 1287
(3) of this section. 1288

(2) If all of the resignation or removal necessary parties 1289
and all qualified beneficiaries of the trust have been served a 1290
notice and trustee's reports that comply with the requirements 1291
of this section and have either consented to the delivery of the 1292
net assets of the trust to the successor trustee or failed to 1293
timely provide the trustee a written objection as described in 1294
this section, all other beneficiaries of the trust, including 1295
persons who may succeed to the interests in the trust of the 1296
beneficiaries served, shall be barred as described in division 1297
(F) (3) of this section. 1298

(3) The bar of claims under divisions (F) (1) and (2) of this section applies: 1299
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(a) To each person barred, the person's personal representatives and assigns, and the person's heirs who are not beneficiaries of the noticing trust; 1301
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(b) To the same extent and with the same preclusive effect as if the court had entered a final order approving and settling the departing trustee's full account of its entire administration of the trust, notwithstanding the limitations periods otherwise applicable under section 5810.05 of the Revised Code. 1304
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(c) To bar the person from bringing a claim against the successor trustee for failure to object to a matter that is subject to the bar of claims against the departing trustee to the same extent as the bar applies to claims against the departing trustee. 1310
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Sec. 5801.24. (A) (1) Division (A) (2) of this section applies if both of the following apply: 1315
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(a) A notice and trustee's reports under division (B) of section 5801.22 or division (B) of section 5801.23 of the Revised Code are served upon both of the following: 1317
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1319

(i) The personal representative for the estate of a deceased beneficiary of the noticing trust or the trustee of a subtrust that is a beneficiary of the noticing trust; 1320
1321
1322

(ii) One or more beneficiaries of the estate or subtrust whose fiduciary is served. 1323
1324

(b) Both the fiduciary of the estate or subtrust and one or more beneficiaries of that estate or subtrust who are served 1325
1326

do either of the following: 1327

(i) Consent to the proposed distributions or delivery of 1328
assets described in the notice; 1329

(ii) Fail to object within the applicable objection 1330
period. 1331

(2) If the criteria described in division (A) (1) of this 1332
section are met, the beneficiary of the estate or subtrust who 1333
is subject to the claims bar with respect to the administration 1334
of the noticing trust shall be barred to the same extent from 1335
bringing a claim against the fiduciary of the estate or subtrust 1336
for failure to object to a matter that is subject to the bar of 1337
claims against the trustee of the noticing trust. 1338

(B) The notices and trustee's reports served by the 1339
trustee of the noticing trust under section 5801.22 or 5801.23 1340
of the Revised Code shall be served on a person by any of the 1341
following means: 1342

(1) Handing them to the person; 1343

(2) Leaving them at either of the following locations: 1344

(a) At the person's office with a clerk or other person in 1345
charge or, if no one is in charge, in a conspicuous place in the 1346
office; 1347

(b) At the person's dwelling or usual place of abode with 1348
someone of suitable age and discretion who resides there; 1349

(3) Mailing them to the person's last known address by 1350
United States mail, in which event service is complete upon 1351
mailing; 1352

(4) Delivering them to a commercial carrier service for 1353

delivery to the person's last known address within three 1354
calendar days, in which event service is complete upon delivery 1355
to the carrier; 1356

(5) Sending them by electronic means to a facsimile number 1357
or electronic mail address provided by the person to be served 1358
or provided by his or her attorney, in which event service is 1359
complete upon transmission, but is not effective if the trustee 1360
of the noticing trust learns that they did not reach the person. 1361

(C) No trustee shall request or include a trustee 1362
indemnification clause in the notice and trustee's reports 1363
served under division (B) of section 5801.22 or division (B) of 1364
section 5801.23 of the Revised Code or in any documentation 1365
served by the trustee with the notice and trustee's reports. 1366
However, in the event such notice and trustee's reports are 1367
served and a written objection is received by the trustee within 1368
the applicable objection period, a trustee indemnification 1369
clause may be included in an agreement or other written 1370
instrument executed by the objecting party pursuant to division 1371
(D) (1) (b) (i) of section 5801.22 or division (D) (1) (b) (i) of 1372
section 5801.23 of the Revised Code. 1373

Section 2. That existing sections 517.23, 517.24, 517.25, 1374
2107.52, 2108.82, 2111.18, 2117.06, 2117.07, and 2131.09 of the 1375
Revised Code are hereby repealed. 1376