

AN ACT

To amend sections 111.16, 122.16, 122.173, 127.16, 135.14, 135.142, 135.35, 150.05, 169.01, 169.03, 169.08, 169.13, 718.01, 1329.01, 1329.02, 1701.03, 1701.05, 1701.791, 1702.05, 1702.411, 1703.04, 1729.36, 1729.38, 1745.461, 1751.01, 1776.69, 1776.82, 1782.02, 1782.432, 1785.09, 3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 4703.331, 4715.18, 4715.22, 4715.365, 4715.431, 4717.06, 4723.16, 4725.33, 4729.161, 4729.541, 4731.226, 4731.228, 4732.28, 4733.16, 4734.17, 4735.24, 4755.111, 4755.471, 4757.37, 5701.14, 5715.19, 5733.04, 5733.33, 5733.42, 5747.01, 5751.01, and 5751.012; to enact sections 169.052, 1706.01, 1706.02, 1706.03, 1706.04, 1706.05, 1706.06, 1706.061, 1706.07, 1706.08, 1706.081, 1706.082, 1706.09, 1706.16, 1706.161, 1706.17, 1706.171, 1706.172, 1706.173, 1706.174, 1706.175, 1706.18, 1706.19, 1706.20, 1706.26, 1706.27, 1706.28, 1706.281, 1706.29, 1706.30, 1706.31, 1706.311, 1706.32, 1706.33, 1706.331, 1706.332, 1706.34, 1706.341, 1706.342, 1706.41, 1706.411, 1706.412, 1706.46, 1706.461, 1706.47, 1706.471, 1706.472, 1706.473, 1706.474, 1706.475, 1706.51, 1706.511, 1706.512, 1706.513, 1706.514, 1706.515, 1706.61, 1706.611, 1706.612, 1706.613, 1706.614, 1706.615, 1706.616, 1706.617, 1706.62, 1706.71, 1706.711, 1706.712, 1706.713, 1706.72, 1706.721, 1706.722, 1706.723, 1706.73, 1706.74, 1706.76, 1706.761, 1706.762, 1706.763, 1706.764, 1706.765, 1706.766, 1706.767, 1706.768, 1706.769, 1706.7610, 1706.7611, 1706.7612, 1706.7613, 1706.81, 1706.82, 1706.83, and 1706.84; and to repeal sections 1705.01, 1705.02, 1705.03, 1705.031, 1705.04, 1705.05, 1705.06, 1705.07, 1705.08, 1705.081, 1705.09, 1705.10, 1705.11, 1705.12, 1705.13, 1705.14, 1705.15, 1705.16, 1705.161, 1705.17, 1705.18, 1705.19, 1705.20, 1705.21, 1705.22, 1705.23, 1705.24, 1705.25, 1705.26, 1705.27, 1705.28, 1705.281, 1705.282, 1705.29, 1705.291, 1705.292, 1705.30, 1705.31, 1705.32, 1705.33, 1705.34, 1705.35, 1705.36, 1705.361, 1705.37, 1705.371, 1705.38, 1705.381, 1705.39, 1705.391, 1705.40, 1705.41, 1705.42, 1705.43, 1705.44, 1705.45, 1705.46, 1705.47, 1705.48, 1705.49, 1705.50, 1705.51, 1705.52, 1705.53, 1705.54, 1705.55, 1705.56, 1705.57, 1705.58, and 1705.61 of the Revised Code to enact the Ohio Revised Limited Liability Company Act and to make changes to the Unclaimed Funds Law.

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

SECTION 1. That sections 111.16, 122.16, 122.173, 135.14, 135.142, 135.35, 150.05, 718.01, 1329.01, 1329.02, 1701.03, 1701.05, 1701.791, 1702.05, 1702.411, 1703.04, 1729.36, 1729.38, 1745.461, 1751.01, 1776.69, 1776.82, 1782.02, 1782.432, 1785.09, 3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 4703.331, 4715.18, 4715.22, 4715.365, 4715.431, 4717.06, 4723.16, 4725.33, 4729.161, 4729.541, 4731.226, 4731.228, 4732.28, 4733.16, 4734.17, 4755.111, 4755.471, 4757.37, 5701.14, 5715.19, 5733.04, 5733.33, 5733.42, 5747.01, 5751.01, and 5751.012 be amended and sections 1706.01, 1706.02, 1706.03, 1706.04, 1706.05, 1706.06, 1706.061, 1706.07, 1706.08, 1706.081, 1706.082, 1706.09, 1706.16, 1706.161, 1706.17, 1706.171, 1706.172, 1706.173, 1706.174, 1706.175, 1706.18, 1706.19, 1706.20, 1706.26, 1706.27, 1706.28, 1706.281, 1706.29, 1706.30, 1706.31, 1706.311, 1706.32, 1706.33, 1706.331, 1706.332, 1706.34, 1706.341, 1706.342, 1706.41, 1706.411, 1706.412, 1706.46, 1706.461, 1706.47, 1706.471, 1706.472, 1706.473, 1706.474, 1706.475, 1706.51, 1706.511, 1706.512, 1706.513, 1706.514, 1706.515, 1706.61, 1706.611, 1706.612, 1706.613, 1706.614, 1706.615, 1706.616, 1706.617, 1706.62, 1706.71, 1706.711, 1706.712, 1706.713, 1706.72, 1706.721, 1706.722, 1706.723, 1706.73, 1706.74, 1706.76, 1706.761, 1706.762, 1706.763, 1706.764, 1706.765, 1706.766, 1706.767, 1706.768, 1706.769, 1706.7610, 1706.7611, 1706.7612, 1706.7613, 1706.81, 1706.82, 1706.83, and 1706.84 of the Revised Code be enacted to read as follows:

Sec. 111.16. Except as provided in section 1701.041 of the Revised Code, the secretary of state shall charge and collect, for the benefit of the state, the following fees:

(A) For filing and recording articles of incorporation of a domestic corporation, including designation of agent:

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, ninety-nine dollars;

(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:

(a) Ten cents for each share authorized up to and including one thousand shares;

(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;

(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;

(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;

(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;

(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than ninety-nine dollars or greater than one hundred thousand dollars.

(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:

(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;

(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and

in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued by the corporation; provided no fee under division (B)(2) of this section shall be greater than one hundred thousand dollars;

(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars;

(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars.

(C) For filing and recording articles of incorporation of a savings and loan association, ninety-nine dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association, fifty dollars;

(D) For filing and recording a certificate of conversion, including a designation of agent, a certificate of merger, or a certificate of consolidation, ninety-nine dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued or represented in this state by each of the corporations for which a consolidation or merger is effected by the certificate;

(E) For filing and recording articles of incorporation of a credit union or the American credit union guaranty association, ninety-nine dollars, and for filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the association, fifty dollars;

(F) For filing and recording articles of organization of a limited liability company, for filing and recording an application to become a registered foreign limited liability company, for filing and recording a registration application to become a domestic limited liability partnership, or for filing and recording an application to become a registered foreign limited liability partnership, ninety-nine dollars;

(G) For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, or for filing an initial statement of partnership authority pursuant to section 1776.33 of the Revised Code, ninety-nine dollars;

(H) For filing a copy of papers evidencing the incorporation of a municipal corporation or of annexation of territory by a municipal corporation, five dollars, to be paid by the municipal corporation, the petitioners therefor, or their agent;

(I) For filing and recording any of the following:

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code or a foreign nonprofit corporation pursuant to section 1703.27 of the Revised Code, ninety-nine dollars;

(2) A biennial report or biennial statement pursuant to section 1775.63, 1776.83, or 1785.06 of the Revised Code, twenty-five dollars;

(3) Except as otherwise provided in this section or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the secretary of state, twenty-five dollars.

(J) For filing any certificate or paper not required to be recorded, five dollars;

(K)(1) For making copies of any certificate or other paper filed in the office of the secretary of state, a fee not to exceed one dollar per page, except as otherwise provided in the Revised Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required by state officers for official purpose, no charge shall be made.

(2) For creating and affixing the seal of the office of the secretary of state to the certificates described in division (E) of section 1701.81, division (E) of section 1701.811, division (E) of section 1705.38, division (E) of section 1705.381, division (D) of section 1702.43, division (E) of section 1775.47, division (E) of section 1775.55, division (E) of section 1776.70, division (E) of section 1776.74, division (E) of section 1782.433, or division (E) of section 1782.4310 of the Revised Code, twenty-five dollars.

(L) For a minister's license to solemnize marriages, ten dollars;

(M) For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing, fifty dollars;

(N) Fifty dollars for filing and recording any of the following:

(1) A certificate of dissolution and accompanying documents, or a certificate of cancellation, under section 1701.86, 1702.47, 1705.43, 1706.471, 1776.65, or 1782.10 of the Revised Code;

(2) A notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation under section 1703.17 of the Revised Code;

(3) The withdrawal of registration of a foreign or domestic limited liability partnership under section 1775.61, 1775.64, 1776.81, or 1776.86 of the Revised Code, or the certificate of cancellation of registration of a foreign limited liability company under section 1705.57 or 1706.514 of the Revised Code;

(4) The filing of a statement of denial under section 1776.34 of the Revised Code, a statement of dissociation under section 1776.57 of the Revised Code, a statement of disclaimer of general partner status under Chapter 1782. of the Revised Code, or a cancellation of disclaimer of general partner status under Chapter 1782. of the Revised Code.

(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;

(P) For filing a restatement under section 1705.08, 1706.161, or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08, 1706.161, or 1782.09 of the Revised Code, or a correction under section 1705.55, 1706.173, 1706.511, 1706.513, 1775.61, 1775.64, 1776.12, or 1782.52 of the Revised Code, fifty dollars;

(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;

(R) For filing and recording any of the following:

(1) A change of agent, resignation of agent, or change of agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1706.09, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, twenty-five dollars;

(2) A multiple change of agent name or address, standardization of agent address, or

resignation of agent under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1706.09, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one hundred twenty-five dollars, plus three dollars per entity record being changed, by the multiple agent update.

(S) For filing and recording any of the following:

(1) An application for the exclusive right to use a name or an application to reserve a name for future use under section 1701.05, 1702.05, 1703.31, 1705.05, 1706.07, or 1746.06 of the Revised Code, thirty-nine dollars;

(2) A trade name or fictitious name registration or report, thirty-nine dollars;

(3) An application to renew any item covered by division (S)(1) or (2) of this section that is permitted to be renewed, twenty-five dollars;

(4) An assignment of rights for use of a name covered by division (S)(1), (2), or (3) of this section, the cancellation of a name registration or name reservation that is so covered, or notice of a change of address of the registrant of a name that is so covered, twenty-five dollars.

(T) For filing and recording a report to operate a business trust or a real estate investment trust, either foreign or domestic, ninety-nine dollars; and for filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate investment trust, fifty dollars;

(U)(1) For filing and recording the registration of a trademark, service mark, or mark of ownership, one hundred twenty-five dollars;

(2) For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership, twenty-five dollars.

(V) For filing a service of process with the secretary of state, five dollars, except as otherwise provided in any section of the Revised Code;

(W) For making, recording, and forwarding a commission under section 107.06 of the Revised Code, the applicable fee specified in that section.

Fees specified in this section may be paid by cash, check, or money order, by credit card in accordance with section 113.40 of the Revised Code, or by an alternative payment program in accordance with division (B) of section 111.18 of the Revised Code. Any credit card number or the expiration date of any credit card is not subject to disclosure under Chapter 149. of the Revised Code.

Sec. 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment

income to total county income equal to or greater than twenty-five per cent.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

- (a) The number of jobs lost by the closing or downsizing;
- (b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;
- (c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The application shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the Revised Code to submit an affidavit to the director of development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of development may grant under such agreements shall be as follows:

1996 \$5,000,000

1997 \$10,000,000

1998 \$10,000,000

1999 \$5,000,000

For any year in which the director of development does not grant tax credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an

eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more than one site may apply to the director of development to enter into more than one agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not including any amount that may be carried forward from previous years under section 5733.34 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under section 5733.34 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director of development:

(1) The status of all cost recovery litigation described in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of development requires to perform the director's duties under this section.

(G) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the calendar year that includes that first day of January.

(H) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section.

Sec. 122.173. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes

binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area, for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

- (a) The number of jobs lost by the closing or downsizing;
- (b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;
- (c) The annual payroll associated with the job loss;
- (d) The amount of state and local taxes associated with the job loss;
- (e) The impact that the closing or downsizing has on suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

- (a) Calendar years 1992, 1993, and 1994, with regard to a grant claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;
- (b) Calendar years 1993, 1994, and 1995, with regard to a grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;
- (c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;
- (d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;
- (e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;
- (f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;
- (g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;
- (h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code.

(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax

imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the grant.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the grant amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section, "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the grant amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the grant amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a grant for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those grants each year.

(4) Except as provided in division (J) of this section, the taxpayer shall claim one-seventh of the grant amount for the taxable year ending in the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer grant amount is allowed for each of the six ensuing taxable years. Except for carried-forward amounts, the taxpayer is not allowed any grant amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully

depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward grant amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward grant amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity that transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section applies only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any grant amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the grant allowed by this section in the manner provided by section 122.172 of the Revised Code. Any portion of the grant in excess of the taxpayer's tax liability for the taxable year shall not be refundable but may be carried forward for the next three consecutive taxable years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the grant shall file, with the director of development, a notice of intent to claim the grant on a form prescribed by the director of development. The director of development shall inform the tax commissioner of the notice of intent to claim the grant. No grant may be claimed under this section

for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005, but a notice filed on or before such date under division (E) of section 5733.33 of the Revised Code of the intent to claim the credit under that section also shall be considered a notice of the intent to claim a grant under this section.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax grant for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31 or 5733.311 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the grant under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the grant available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The grant shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. The election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any grant attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any grant attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

(J) Except as provided in division (B) of section 122.172 of the Revised Code, no grant under this section may be claimed for any taxable year for which a credit is allowed under section 5733.33 of the Revised Code. If the tax imposed by section 5733.06 of the Revised Code for which a grant is allowed under this section has been prorated under division (G)(2) of section 5733.01 of the Revised Code, the grant shall be prorated by the same percentage as the tax.

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

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

(2) "Other obligations" includes notes whether or not issued in anticipation of the issuance of bonds.

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

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

Nothing in the classification of eligible obligations set forth in division (B)(1) of this section or in the classifications of eligible obligations set forth in divisions (B)(2) to (7) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible 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) Interim deposits in the eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code. The award of interim deposits shall be made in accordance with section 135.09 of the Revised Code and the treasurer or the governing board shall determine the periods for which such interim deposits are to be made and shall award such interim deposits for such periods, provided that any eligible institution receiving an interim deposit award may, upon notification that the award has been made, decline to accept the interim deposit in which event the award shall be made as though the institution had not applied for such interim deposit.

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

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

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

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

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

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

No investment shall be made under division (B)(4) of this section unless the treasurer or governing board has completed additional training for making the investments authorized by division (B)(4) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

(5) No-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of this section 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 135.03 of the Revised Code;

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

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

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

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

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

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

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

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

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

(C) Nothing in the classifications of eligible obligations set forth in divisions (B)(1) to (7) of this section shall be construed to authorize any investment in a derivative, and no treasurer or governing board shall invest in a derivative. For purposes of this division, "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 this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (B)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(D) Except as provided in division (B)(4) or (E) of this section, any investment made pursuant to this section must mature within five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the subdivision.

(E) The treasurer or governing board may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.03 of the Revised Code or any eligible dealer pursuant to division (M) of this section, under the terms of which agreement the treasurer or governing board purchases, and such institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (D)(1) to (5), except letters of credit described in division (D)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written

repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement shall not exceed thirty days and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the treasurer or governing board or an agent designated by the treasurer or governing board. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution or dealer shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

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.

(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.

(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:

- (1) The Ohio subdivision's fund pursuant to division (B)(6) of this section;
- (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.

For purposes of division (G) of this section, "subdivision" includes a county.

(H) The use of leverage, in which the treasurer or governing board uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities that have not yet been acquired by the treasurer or governing board, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(I) Whenever, during a period of designation, the treasurer classifies public moneys as interim moneys, the treasurer shall notify the governing board of such action. The notification shall be given within thirty days after such classification and in the event the governing board does not concur in such classification or in the investments or deposits made under this section, the governing board may order the treasurer to sell or liquidate any of such investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer on the date fixed in such order at the then current market price. Neither the treasurer nor the members of the board shall be held accountable for any loss occasioned by sales or

liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making such sales or liquidations is payable as other expenses of the treasurer's office.

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

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

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

(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 institution mentioned in section 135.03 of the Revised Code.

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

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

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

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

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

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

Sec. 135.142. (A) In addition to the investments authorized by section 135.14 of the Revised Code, any board of education, by a two-thirds vote of its members, may authorize the treasurer of the

board of education to invest up to forty per cent of the interim moneys of the board, available for investment at any one time, in either of the following:

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

(a) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.

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

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

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

(2) Bankers' acceptances of banks that are insured by the federal deposit insurance corporation and that mature no later than one hundred eighty days after purchase.

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

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

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

(E)(1) In addition to the investments authorized by section 135.14 of the Revised Code and division (A) of this section, any board of education that is a party to an agreement with the treasurer of state pursuant to division (G) of section 135.143 of the Revised Code and that has outstanding obligations issued under authority of section 133.10 or 133.301 of the Revised Code may authorize the treasurer of the board of education to invest interim moneys of the board in debt interests rated in either of the two highest rating classifications by at least two nationally recognized standard rating services and issued by entities that are defined in division (D) of section 1705.01 or division (E) of section 1706.01 of the Revised Code. The debt interests purchased under authority of division (E) of this section shall mature not later than the latest maturity date of the outstanding obligations issued under authority of section 133.10 or 133.301 of the Revised Code.

(2) If any of the debt interests acquired under division (E)(1) of this section ceases to be rated as there required, its issuer shall notify the treasurer of state of this fact within twenty-four hours. At any time thereafter the treasurer of state may require collateralization at the rate of one hundred two per cent of any remaining obligation of the entity, with securities authorized for investment under

section 135.143 of the Revised Code. The collateral shall be delivered to and held by a custodian acceptable to the treasurer of state, marked to market daily, and any default to be cured within twelve hours. Unlimited substitution shall be allowed of comparable securities.

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

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

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 rating service 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 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing authority lends securities and the eligible institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not inactive moneys of the county or moneys of a county public library fund. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in instruments specified by the investing authority in the written investment policy described in division (K) of this section.

(8) Up to forty per cent of the county's total average portfolio in either of the following investments:

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

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

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

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

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

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

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

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

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

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

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

The investing authority shall invest under division (A)(10) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(10) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized standard rating services.

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

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions

(A)(1) to (10) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "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 this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not later than five years after purchase.

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

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (D)(1) to (5), except letters of credit described in division (D)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

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

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

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

(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.

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

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

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

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

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), and (11) of this section, 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, investing authority, 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.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

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

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

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

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

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

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

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any

controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

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

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

Sec. 150.05. (A) The authority shall select, as program administrators, not more than two private, for-profit investment funds to acquire loans for the program fund and to invest money in the program fund as prescribed in the investment policy established or modified by the authority in accordance with sections 150.03 and 150.04 of the Revised Code. The authority shall give equal consideration, in selecting these program administrators, to minority owned and controlled investment funds, to funds owned and controlled by women, to ventures involving minority owned and controlled funds, and to ventures involving funds owned and controlled by women that otherwise meet the policies and criteria established by the authority. To be eligible for selection, an investment fund must be incorporated or organized under Chapter 1701., 1705., 1706., 1775., 1776., 1782., or 1783. of the Revised Code, must have an established business presence in this state, and must be capitalized in accordance with any state and federal laws applicable to the issuance or sale of securities.

The authority shall select program administrators only after soliciting and evaluating requests for proposals as prescribed in this section. The authority shall publish a notice of a request for proposals in newspapers of general circulation in this state once each week for two consecutive weeks before a date specified by the authority as the date on which it will begin accepting proposals. The notices shall contain a general description of the subject of the proposed agreement and the location where the request for proposals may be obtained. The request for proposals shall include all the following:

(1) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(2) Instructions regarding the manner in which respondents may communicate with the authority, including the names, titles, and telephone numbers of the individuals to whom such communications shall be directed;

(3) Description of the performance criteria that will be used to evaluate whether a respondent selected by the authority is satisfying the authority's investment policy;

(4) Description of the factors and criteria to be considered in evaluating respondents' proposals, the relative importance of each factor or criterion, and description of the authority's evaluation procedure;

(5) Description of any documents that may be incorporated by reference into the request for proposals, provided that the request specifies where such documents may be obtained and such documents are readily available to all interested parties.

After the date specified for receiving proposals, the authority shall evaluate submitted proposals. The authority may discuss a respondent's proposal with that respondent to clarify or revise a proposal or the terms of the agreement.

The authority shall choose for review proposals from at least three respondents the authority considers qualified to operate the program in the best interests of the investment policy adopted by the authority. If three or fewer proposals are submitted, the authority shall review each proposal. The authority may cancel a request for proposals at any time before entering into an agreement with a respondent. The authority shall provide respondents fair and equal opportunity for such discussions. The authority may terminate discussions with any respondent upon written notice to the respondent.

(B) After reviewing the chosen proposals, the authority may select not more than two such respondents and enter into a written agreement with each of the selected respondents, provided that at no time shall there be agreements with more than two persons.

The agreement shall do all of the following:

(1) Specify that borrowing and investing by the program administrator will be budgeted to guarantee that no tax credits will be granted during the first four years of the Ohio venture capital program, and will be structured to ensure that payments of principal, interest, or interest equivalent due in any fiscal year, when added to such payments due from any other program administrator, does not exceed twenty million dollars;

(2) Require investment by the program administrator or the fund manager employed by the program administrator to be in compliance with the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code that is in effect at the time the investment is made, and prohibit the program administrator or fund manager from engaging in any investment activities other than activities to carry out that policy;

(3) Require periodic financial reporting by the program administrator to the authority, which reporting shall include an annual audit by an independent auditor and such other financial reporting as is specified in the agreement or otherwise required by the authority for the purpose of ensuring that the program administrator is carrying out the investment policy;

(4) Specify any like standards or general limitations in addition to or in furtherance of investment standards or limitations that apply pursuant to division (H) of section 150.03 of the Revised Code;

(5) Require the program administrator to apply program fund revenue first to the payment of principal borrowed by the program administrator for investment under the program, then to interest related to that principal, and then to amounts necessary to cover the program administrator's pro rata share required under division (B)(9) of this section; and require the program administrator to pay the authority not less than ninety per cent of the amount by which program fund revenue attributable to investments under the program administrator's investment authority exceeds amounts so applied;

(6) Specify the procedures by which the program administrator shall certify immediately to the authority the necessity for the authority to issue tax credit certificates pursuant to contracts entered into under section 150.07 of the Revised Code;

(7) Specify any general limitations regarding the employment of a fund manager by the program administrator, in addition to an express limitation that the fund manager be a person with demonstrated, substantial, successful experience in the design and management of seed and venture capital investment programs and in capital formation. The fund manager may be, but need not be, an equity owner or affiliate of the program administrator.

(8) Specify the terms and conditions under which the authority or the program administrator may terminate the agreement, including in the circumstance that the program administrator or fund manager violates the investment policy;

(9) Require the program administrator or fund manager employed by the program administrator to provide capital in the form of a loan equal to one per cent of the amount of outstanding loans by lenders to the program fund. The loan from the program administrator or fund manager shall be on the same terms and conditions as loans from other lenders, except that the loan from the program administrator or fund manager shall not be secured by the Ohio venture capital fund or tax credits available to other lenders under division (B) of section 150.04 of the Revised Code. Such capital shall be placed at the same risk as the proceeds from such loans. The program administrator shall receive a pro rata share of the net income, including net loss, from the investment of money from the program fund, but is not entitled to the security against losses provided under section 150.04 of the Revised Code.

Sec. 718.01. Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Revised Code, unless a different meaning is clearly required. Except as provided in section 718.81 of the Revised Code, if a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Revised Code.

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

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

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

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

(ii) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not

residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Revised Code.

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

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

(B) "Income" means the following:

(1)(a) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (D)(5) of this section.

(b) For the purposes of division (B)(1)(a) of this section:

(i) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (B)(1)(d) of this section;

(ii) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(c) Division (B)(1)(b) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(14)(b) or (c) of this section.

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

a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

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

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

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

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

(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;

(2)(a) Except as provided in division (C)(2)(b) of this section, intangible income;

(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.

(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.

(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.

(5) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

(7) Alimony and child support received;

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

damages;

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

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

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

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

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

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

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

(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of continuing to tax such shares after that date voted in favor of that question at an election held November 2, 2004. If a majority of those electors voted in favor of the question, the municipal corporation may continue after December 31, 2004, to impose the tax on such distributive shares only to the extent such shares would be so allocated or apportioned to this state.

(d) A municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation voted in favor of a question at an election held

under division (C)(14)(b) or (c) of this section. The municipal corporation shall specify by resolution or ordinance that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

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

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

(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 circumstances:

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

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

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

(d) For purposes of division (C)(17) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual

regularly reports and at which the individual regularly performs personal services for compensation.

(18) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

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

(20) All of the following:

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

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

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

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

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

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

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

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

be fully utilized.

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

(c)(i) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (D)(3) of this section.

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

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

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

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

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

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

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

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or

business or assets held for the production of income.

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

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

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

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

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

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

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code;

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

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

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

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (L)(2) of this section, is not a publicly traded partnership that has made the election described in division (D)(5) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former

shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) "Limited liability company" means a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of another state.

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

(1) Deduct the following amounts:

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

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

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

(d) Any amount included in wages if 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, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

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

(2) Add the following amounts:

(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(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.

(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.

(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.

(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.

(f) Any amount not included in wages if all of the following apply:

(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;

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

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

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

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

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

(U) "Tax administrator" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(1) A municipal corporation acting as the agent of another municipal corporation;

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

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

"Tax administrator" does not include the tax commissioner.

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

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

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

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

(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to

the Internal Revenue Code.

(AA) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.72 of the Revised Code.

(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

(DD) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

(EE) "Ohio business gateway" means the online computer network system, created under section 125.30 of the Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(FF) "Local board of tax review" and "board of tax review" mean the entity created under section 718.11 of the Revised Code.

(GG) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

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

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

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

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

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

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

(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

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

(1) An individual stockholder, or a member of the stockholder's family enumerated in section

318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

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

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

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

(PP)(1) "Assessment" means a written finding by the tax administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the local board of tax review pursuant to section 718.11 of the Revised Code, and has "ASSESSMENT" written in all capital letters at the top of such finding.

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

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

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

(SS)(1) "Pre-2017 net operating loss carryforward" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the municipal corporation that was adopted by the municipal corporation before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such municipal corporation in future taxable years.

(2) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017

or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

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

(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. 1329.01. (A) As used in sections 1329.01 to 1329.10 of the Revised Code:

(1) "Trade name" means a name used in business or trade to designate the business of the user and to which the user asserts a right to exclusive use.

(2) "Fictitious name" means a name used in business or trade that is fictitious and that the user has not registered or is not entitled to register as a trade name. It does not include the name of record of any domestic corporation that is formed under Chapter 1701. or 1702. of the Revised Code, any foreign corporation that is registered pursuant to Chapter 1703. of the Revised Code, any domestic or foreign limited liability company that is formed under or registered pursuant to Chapter

1705. or 1706. of the Revised Code, any domestic or foreign limited partnership that is formed under or registered pursuant to Chapter 1782. of the Revised Code, or any domestic or foreign limited liability partnership that is formed under or registered pursuant to Chapter 1775. or 1776. of the Revised Code.

(3) "Person" includes any individual, general partnership, limited partnership, limited liability partnership, corporation, association, professional association, limited liability company, society, foundation, federation, or organization formed under the laws of this state or any other state.

(B) Except as provided in section 1701.041 of the Revised Code and subject to sections 1329.01 to 1329.10 of the Revised Code, any person may register with the secretary of state, on a form prescribed by the secretary of state, any trade name under which the person is operating, setting forth all of the following:

(1) The name and business address of the applicant for registration and any of the following that is applicable:

(a) If the applicant is a general partnership, the name and address of at least one partner or the identifying number the secretary of state assigns to the partnership pursuant to section 1776.05 of the Revised Code;

(b) If the applicant is a limited partnership, a corporation, professional association, limited liability company, or other entity, the form of the entity and the state under the laws of which it was formed.

(2) The trade name to be registered;

(3) The general nature of the business conducted by the applicant;

(4) The length of time during which the trade name has been used by the applicant in business operations in this state.

(C) The trade name application shall be signed by the applicant or by any authorized representative of the applicant.

A single trade name may be registered upon each trade name application submitted under sections 1329.01 to 1329.10 of the Revised Code.

The trade name application shall be accompanied by a filing fee of thirty-nine dollars, payable to the secretary of state.

(D) Any person who does business under a fictitious name and who has not registered and does not wish to register the fictitious name as a trade name or who cannot do so because the name is not available for registration shall report the use of the fictitious name to the secretary of state, on a form prescribed by the secretary of state, setting forth all of the following:

(1) The name and business address of the user and any of the following that is applicable:

(a) If the user is a general partnership, the name and address of at least one partner or the identifying number the secretary of state assigns to the partnership pursuant to section 1775.105 of the Revised Code;

(b) If the user is a limited partnership, a corporation, professional association, limited liability company, or other entity, the form of the entity and the state under whose laws it was formed.

(2) The fictitious name being used;

(3) The general nature of the business conducted by the user.

(E) The report of use of a fictitious name shall be signed by the user or by any authorized

representative of the user.

A single fictitious name may be registered upon each fictitious name report submitted under sections 1329.01 to 1329.10 of the Revised Code.

The fictitious name report shall be accompanied by a filing fee of thirty-nine dollars, payable to the secretary of state.

A report under this division shall be made within thirty days after the date of the first use of the fictitious name.

Sec. 1329.02. (A) The secretary of state shall not file an application for the registration of any trade name if the application indicates or implies that the trade name is connected with a government agency of this state, another state, or the United States and the trade name is not so connected or if the application indicates or implies that the applicant is incorporated and the application is not incorporated. Additionally, the secretary of state shall not file an application for the registration of any trade name if it is not distinguishable upon the records in the office of the secretary of state from any other trade name previously registered under sections 1329.01 to 1329.03 of the Revised Code, any corporate name, whether nonprofit or for profit and whether that of a domestic corporation or of a foreign corporation authorized to do business in this state, the name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign, the name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign, the name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign, or any trademark, or service mark previously filed and recorded in the office of the secretary of state and not abandoned, unless the written consent of the corporation, limited liability company, limited liability partnership, or limited partnership, or the person to whom is registered the exclusive right to use the trade name is filed in accordance with division (C) of section 1701.05 of the Revised Code with the application or the written consent of the former registrant of the trademark or service mark is filed with the application. The application for the registration of a trade name and the consent form shall be on a form prescribed by the secretary of state.

(B) The secretary of state shall determine for purposes of this section whether a name is distinguishable from another name in a manner consistent with the provisions of division (B) of section 1701.05 of the Revised Code.

Sec. 1701.03. (A) A corporation may be formed under this chapter for any purpose or combination of purposes for which individuals lawfully may associate themselves, except that, if the Revised Code contains special provisions pertaining to the formation of any designated type of corporation other than a professional association, as defined in section 1785.01 of the Revised Code, a corporation of that type shall be formed in accordance with the special provisions.

(B) On and after July 1, 1994, a corporation may be formed under this chapter for the purpose of carrying on the practice of any profession, including, but not limited to, a corporation for the purpose of providing public accounting or certified public accounting services, a corporation for the erection, owning, and conducting of a sanitarium for receiving and caring for patients, medical and hygienic treatment of patients, and instruction of nurses in the treatment of disease and in hygiene, a corporation for the purpose of providing architectural, landscape architectural, professional

engineering, or surveying services or any combination of those types of services, and a corporation for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code, and licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists authorized under Chapter 4757. of the Revised Code.

This chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services, as defined in section 1785.01 of the Revised Code, in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that an individual is a director, officer, employee, or other agent of a corporation formed under this chapter and is rendering professional services or engaging in the practice of a profession through a corporation formed under this chapter or that the organization is a corporation formed under this chapter.

(C) Nothing in division (A) or (B) of this section precludes the organization of a professional association in accordance with this chapter and Chapter 1785. of the Revised Code or the formation of a limited liability company under Chapter 1705. or 1706. of the Revised Code with respect to a ~~business, as defined in section 1705.01 of the Revised Code~~ trade, occupation, or profession.

(D) No corporation formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code, and licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists authorized under Chapter 4757. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through

the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, occupational therapist, mechanotherapist, doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a corporation described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1701.05. (A) Except as provided in this section, and in sections 1701.75, 1701.78, and 1701.82 of the Revised Code, which sections relate to the reorganization, merger, and consolidation of corporations, the corporate name of a domestic corporation shall comply with all of the following:

(1) It shall end with or include the word or abbreviation "company," "co.," "corporation," "corp.," "incorporated," or "inc."

(2) It shall be distinguishable upon the records in the office of the secretary of state from all of the following:

(a) The name of any other corporation, whether nonprofit or for profit and whether that of a domestic or of a foreign corporation authorized to do business in this state;

(b) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign;

(c) The name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign;

(d) The name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign;

(e) Any trade name the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

(3) It shall not contain any language that indicates or implies that the corporation is connected with a government agency of this state, another state, or the United States.

(B) The secretary of state shall determine for purposes of this section whether a name is "distinguishable" from another name upon the secretary of state's records. Without excluding other names that may not constitute distinguishable names in this state, a name is not considered distinguishable from another name for purposes of this section solely because it differs from the other name in only one or more of the following manners:

(1) The use of the word "corporation," "company," "incorporated," "limited," or any abbreviation of any of those words;

(2) The use of any article, conjunction, contraction, abbreviation, or punctuation;

(3) The use of a different tense or number of the same word.

(C) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from the name of any other corporation,

limited liability company, limited liability partnership, or limited partnership, or from a registered trade name, if there also is filed in the office of the secretary of state, on a form prescribed by the secretary of state, the consent of the other entity or, in the case of a registered trade name, the person in whose name is registered the exclusive right to use the name, which consent is evidenced in a writing signed by any authorized officer or any authorized representative of the other entity or person.

(D) In case of judicial sale or judicial transfer, by sale or transfer of good will or otherwise, of the right to use the name of a corporation, whether nonprofit or for profit, and whether that of a domestic corporation or of a foreign corporation authorized to exercise its corporate privileges in this state or to do business in this state, the secretary of state, at the instance of the purchaser or transferee of such right, shall accept for filing articles of a corporation with a name the same as or similar to the name of such other corporation, if there also is filed in the office of the secretary of state a certified copy of the decree or order of court confirming or otherwise evidencing the purchase or transfer.

(E) Any person who wishes to reserve a name for a proposed new corporation, or any corporation intending to change its name, may submit to the secretary of state a written application, on a form prescribed by the secretary of state, for the exclusive right to use a specified name as the name of a corporation. If the secretary of state finds that, under this section, the specified name is available for such use, the secretary of state shall file the application and, from the date of the filing, the applicant shall have the exclusive right for one hundred eighty days to use the specified name as the name of a corporation, counting the date of such filing as the first of one hundred eighty days. The right so obtained may be transferred by the applicant or other holder thereof by the filing in the office of the secretary of state of a written transfer, on a form prescribed by the secretary of state, stating the name and address of the transferee.

Sec. 1701.791. (A) If the constituent entities in a merger or consolidation include entities that are not corporations, the constituent entities may be merged or consolidated into a surviving or new entity that is not a domestic corporation, as provided in this section. Pursuant to an agreement of merger or consolidation between the constituent entities as provided in this section, a domestic corporation and, if so provided, one or more additional domestic or foreign entities, may be merged into a surviving entity other than a domestic corporation, or a domestic corporation together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic corporation, to be formed by such consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(B) The agreement of merger or consolidation shall set forth all of the following:

(1) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(2) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic corporation or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or domestic entity other than a corporation. The name of such a surviving or new entity may be the same as or similar to that of any constituent corporation or constituent limited liability company.

(3) The terms of the merger or consolidation, the mode of carrying them into effect, and the

manner and basis of converting the shares or interests of the constituent entities into, or substituting the shares or interests of the constituent entities for, shares, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of shares, interests, evidences of indebtedness, securities, cash, rights, or any other property of the surviving entity, of the new entity, or of any other entity, including the parent of any constituent entity, or any other person. No conversion or substitution shall be effected if there are reasonable grounds to believe that the surviving or new entity would be rendered insolvent by the conversion or substitution.

(4) If the surviving or new entity is a foreign corporation, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1701.78 of the Revised Code if the surviving or new corporation were a domestic corporation;

(5) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity in that state;

(6) All statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(7) The consent of the surviving or the new entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any domestic constituent corporation, or to enforce the rights of a dissenting shareholder of any domestic constituent corporation;

(8) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(9) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(10) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state.

(C) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be approved by the directors of each domestic constituent corporation, and adopted by the shareholders of each domestic constituent corporation, in the same manner and with the same notice to and vote of shareholders or of holders of a particular class of shares as is required by section 1701.78 of the Revised Code. The agreement also shall be approved or otherwise authorized by or on behalf of each

other constituent entity in accordance with the laws under which it exists.

(E) At any time before the filing of the certificate of merger or consolidation under section 1701.81 of the Revised Code, the merger or consolidation may be abandoned by the directors of any constituent corporation, the general partners of any constituent partnership, or the comparable representatives of any other constituent entity if the directors, general partners, or comparable representatives are authorized to do so by the agreement of merger or consolidation.

The agreement of merger or consolidation may contain a provision authorizing the directors of any constituent corporation, the general partners of any constituent partnership, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that, after the adoption of the agreement by the shareholders of any domestic constituent corporation, the directors shall not be authorized to amend the agreement to do any of the following:

(1) Alter or change the amount or kind of shares, interests, evidences of indebtedness, other securities, cash, rights, or any other property to be received by shareholders of the domestic constituent corporation in conversion of, or in substitution for, their shares;

(2) If the surviving or new entity is a foreign corporation, alter or change any term of the articles of the surviving or new foreign corporation, except for alterations or changes that could otherwise be adopted by the directors of the surviving or new foreign corporation;

(3) If the surviving or new entity is a partnership or other entity other than a corporation, alter or change any term of the partnership agreement or comparable instrument of the surviving or new partnership or other entity, except for alterations or changes that otherwise could be adopted by the general partners or comparable representatives of the surviving or new partnership or other entity;

(4) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the holders of any class or series of shares of the domestic constituent corporation.

Sec. 1702.05. (A) Except as provided in this section and in sections 1702.41 and 1702.411 of the Revised Code, the secretary of state shall not accept for filing in the secretary of state's office any articles if the corporate name set forth in the articles is not distinguishable upon the secretary of state's records from any of the following:

(1) The name of any other corporation, whether a nonprofit corporation or a business corporation and whether that of a domestic or of a foreign corporation authorized to do business in this state;

(2) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign;

(3) The name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign;

(4) The name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign;

(5) Any trade name, the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

(B) The secretary of state shall determine for purposes of this section whether a name is "distinguishable" from another name upon the secretary of state's records. Without excluding other

names that may not constitute distinguishable names in this state, a name is not considered distinguishable from another name for purposes of this section solely because it differs from the other name in only one or more of the following manners:

(1) The use of the word "corporation," "company," "incorporated," "limited," or any abbreviation of any of those words;

(2) The use of any article, conjunction, contraction, abbreviation, or punctuation;

(3) The use of a different tense or number of the same word.

(C) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from the name of any other corporation, any limited liability company, limited liability partnership, or limited partnership, or from a registered trade name, if there also is filed in the office of the secretary of state, on a form prescribed by the secretary of state, the consent of the other entity, or, in the case of a registered trade name, the person in whose name is registered the exclusive right to use the name, which consent is evidenced in a writing signed by any authorized officer or authorized representative of the other entity or person.

(D) In case of judicial sale or judicial transfer, by sale or transfer of good will or otherwise, of the right to use the name of a nonprofit corporation or business corporation, whether that of a domestic corporation or of a foreign corporation authorized to exercise its corporate privileges in this state or to do business in this state, the secretary of state, at the instance of the purchaser or transferee of such right, shall accept for filing articles of a corporation with a name the same as or similar to the name of such other corporation, if there also is filed in the office of the secretary of state a certified copy of the decree or order of court confirming or otherwise evidencing the purchase or transfer.

(E) Any person who wishes to reserve a name for a proposed new corporation, or any corporation intending to change its name, may submit to the secretary of state a written application, on a form prescribed by the secretary of state, for the exclusive right to use a specified name as the name of a corporation. If the secretary of state finds that, under this section, the specified name is available for such use, the secretary of state shall file such application, and, from the date of such filing, such applicant shall have the exclusive right for one hundred eighty days to use the specified name as the name of a corporation, counting the date of such filing as the first of the one hundred eighty days. The right so obtained may be transferred by the applicant or other holder of the right by the filing in the office of the secretary of state of a written transfer, on a form prescribed by the secretary of state, stating the name and address of the transferee.

Sec. 1702.411. (A)(1) Pursuant to an agreement of merger between the constituent entities as provided in this section, a domestic corporation and, if so provided, one or more additional domestic or foreign entities, may be merged into a surviving entity other than a domestic corporation. Pursuant to an agreement of consolidation, a domestic corporation together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic corporation, to be formed by that consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists. The name of the surviving or new entity may be the same as or similar to that of any constituent entity.

(2) To effect a merger or consolidation under this section, the directors of each constituent domestic corporation shall approve an agreement of merger or consolidation to be signed by the

chairperson of the board of directors, the president, or a vice-president and by the secretary or an assistant secretary. The agreement of merger or consolidation shall be approved or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(3) The agreement of merger or consolidation shall set forth all of the following:

(a) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(b) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic corporation or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or domestic entity other than a domestic corporation.

(c) The terms of the merger or consolidation and the mode of carrying those terms into effect;

(d) If the surviving or new entity is a foreign corporation, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1702.41 of the Revised Code if the surviving or new corporation were a domestic corporation;

(e) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity in that state;

(f) All statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(g) The consent of the surviving or the new entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any domestic constituent corporation;

(h) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(i) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(j) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state;

(k) If the surviving or new entity is a foreign unincorporated association that desires to transact business in this state as a foreign unincorporated association, a statement to that effect, together with all of the information required under section 1745.461 of the Revised Code when a foreign unincorporated association registers to transact business in this state.

(4) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(B)(1) A merger or consolidation in which a domestic public benefit corporation is one of the constituent entities shall be approved by the court of common pleas of the county in this state in which the principal office of the domestic public benefit corporation is located in a proceeding of which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding and in which proceeding the attorney general may intervene as of right. No approval by the court under division (B)(1) of this section is required if either of the following applies:

(a) A public benefit entity is the surviving entity in the case of a merger and continues to be a public benefit entity or is the new entity in the case of a consolidation and continues to be a public benefit entity.

(b) A public benefit entity is not the surviving entity in the case of a merger or is not the new entity in the case of a consolidation, and all of the following apply:

(i) On or prior to the effective date of the merger or consolidation, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets, including goodwill, of the domestic public benefit corporation or the fair market value of the domestic public benefit corporation if it is to be operated as a business concern are transferred or conveyed to one or more persons that would have received its assets under section 1702.49 of the Revised Code had it voluntarily dissolved.

(ii) The domestic public benefit corporation returns, transfers, or conveys any assets held by it upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger or consolidation, in accordance with that condition.

(iii) The merger or consolidation is approved by a majority of directors of the domestic public benefit corporation who will not receive any financial or other benefit, directly or indirectly, as a result of the merger or consolidation or by agreement, and who are not and will not as a result of the merger or consolidation become members, partners, or other owners, however denominated, of, shareholders in, directors, officers, managers, employees, agents, or other representatives of, or consultants to, the surviving or new entity.

(2) At least twenty days before consummation of any merger or consolidation of a domestic public benefit corporation pursuant to division (B)(1)(b) of this section, written notice, including a copy of the proposed plan of merger or consolidation, shall be delivered to the attorney general's charitable law section. The attorney general's charitable law section may review a proposed merger or consolidation of a domestic public benefit corporation under division (B)(1)(b) of this section. The attorney general may require pursuant to section 109.24 of the Revised Code the production of the documents necessary for review of a proposed merger or consolidation under division (B)(1)(b) of this section. The attorney general may retain at the expense of the domestic public benefit corporation one or more experts, including an investment banker, actuary, appraiser, certified public accountant, or other expert, that the attorney general considers reasonably necessary to provide assistance in reviewing a proposed merger or consolidation under division (B)(1)(b) of this section. The attorney general may extend the date of any merger or consolidation of a domestic public benefit

corporation under division (B)(1)(b) of this section for a period not to exceed sixty days and shall provide notice of that extension to the domestic public benefit corporation. The notice shall set forth the reasons necessitating the extension.

(3) No member, other than a member that is a public benefit entity, or director of a domestic public benefit corporation in that person's capacity as a member or director may receive or keep anything as a result of a merger or consolidation other than membership or directorship in the surviving or new public benefit entity without the prior written consent of the attorney general or of the court of common pleas of the county in this state in which the principal office of the domestic public benefit corporation is located that is obtained in a proceeding in which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding and in which proceeding the attorney general may intervene as of right. The court shall approve the transaction if it is in the public interest.

(4) The attorney general may institute a civil action to enforce the requirements of divisions (B)(1), (2), and (3) of this section in the court of common pleas of the county in this state in which the principal office of the domestic public benefit corporation is located or in the Franklin county court of common pleas. In addition to any civil remedies that may exist under common law or the Revised Code, a court may rescind the transaction or grant injunctive relief or impose any combination of these remedies.

Sec. 1703.04. (A) To procure a license to transact business in this state, a foreign corporation for profit shall file with the secretary of state a certificate of good standing or subsistence, dated not earlier than ninety days prior to the filing of the application, under the seal of the secretary of state, or other proper official, of the state under the laws of which said corporation was incorporated, setting forth the exact corporate title and the fact that the corporation is in good standing or is a subsisting corporation.

(B) To procure such a license, such corporation also shall file with the secretary of state an application in such form as the secretary of state prescribes, verified by the oath of any authorized officer of such corporation, setting forth, but not limited to:

(1) The name of the corporation and, if its corporate name is not available, the trade name under which it will do business in this state;

(2) The name of the state under the laws of which it was incorporated;

(3) The location and complete address of its principal office;

(4) The name of the county and the municipal corporation or township in which its principal office within this state, if any, is to be located;

(5) The appointment of a designated agent and the complete address of such agent;

(6) The irrevocable consent of such corporation to service of process on such agent so long as the authority of such agent continues and to service of process upon the secretary of state in the events provided for in section 1703.19 of the Revised Code;

(7) A brief summary of the corporate purposes to be exercised within this state.

(C)(1) No such application for a license shall be accepted for filing if it appears that the name of the foreign corporation is prohibited by law or is not distinguishable upon the records in the office of the secretary of state from the name of any other corporation, whether nonprofit or for profit and whether that of a domestic corporation or of a foreign corporation authorized to transact business in

this state, the name of a limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign, the name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign, the name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign, or a trade name to which the exclusive right at the time in question is registered in the manner provided in Chapter 1329. of the Revised Code, unless there also is filed with the secretary of state, on a form prescribed by the secretary of state, the consent of the other entity or person to the use of the name, evidenced in a writing signed by any authorized officer of the other entity or authorized representative of the other person owning the exclusive right to the registered trade name.

(2) Notwithstanding division (C)(1) of this section, if an application for a license is not acceptable for filing solely because the name of the foreign corporation is not distinguishable from the name of another entity or registered trade name, the foreign corporation may be authorized to transact business in this state by filing with the secretary of state, in addition to those items otherwise prescribed by this section, a statement signed by an authorized officer directing the foreign corporation to make application for a license to transact business in this state under an assumed business name or names that comply with the requirements of this division and stating that the foreign corporation will transact business in this state only under the assumed name or names. The application for a license shall be on a form prescribed by the secretary of state.

Sec. 1706.01. As used in this chapter:

(A) "Articles of organization" means the articles of organization described in section 1706.16 of the Revised Code, and those articles of organization as amended or restated.

(B) "Assignment" means a transfer, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, or transfer by operation of law.

(C) "Constituent limited liability company" means a constituent entity that is a limited liability company.

(D) "Constituent entity" means an entity that is party to a merger.

(E) "Contribution" means anything of value including cash, property, or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, that a person contributes to a limited liability company, or a series thereof, in the person's capacity as a member.

(F) "Converted entity" means the entity into which a converting entity converts pursuant to sections 1706.72 to 1706.723 of the Revised Code.

(G) "Converting limited liability company" means a converting entity that is a limited liability company.

(H) "Converting entity" means an entity that converts into a converted entity pursuant to sections 1706.72 to 1706.723 of the Revised Code.

(I) "Debtor in bankruptcy" means a person who is the subject of an order for relief under Title 11 of the United States Code, a comparable order under a successor statute of general application, or a comparable order under any federal, state, or foreign law governing insolvency.

(J) "Distribution" means a transfer of money or other property from a limited liability

company, or a series thereof, to another person on account of a membership interest.

(K) "Entity" means a general partnership, limited partnership, limited liability partnership, limited liability company, association, corporation, professional corporation, professional association, nonprofit corporation, business trust, real estate investment trust, common law trust, statutory trust, cooperative association, or any similar organization that has a governing statute, in each case, whether foreign or domestic.

(L) "Foreign limited liability company" means an entity that is all of the following:

(1) An unincorporated association;

(2) Organized under the laws of a state other than this state or under the laws of a foreign country;

(3) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;

(4) Not required to be registered, qualified, or organized under any statute of this state other than this chapter.

(M) "Governing statute" means the law that governs an entity's internal affairs.

(N) "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed or existing under this chapter.

(O) "Manager" means any person designated by the limited liability company or its members with the authority to manage all or part of the activities or affairs of the limited liability company on behalf of the limited liability company, which person has agreed to serve in such capacity, whether such person is designated as a manager, director, officer, or otherwise.

(P) "Member" means a person that has been admitted as a member of a limited liability company under section 1706.27 of the Revised Code and that has not dissociated as a member.

(Q) "Membership interest" means a member's right to receive distributions from a limited liability company or series thereof.

(R) "Operating agreement" means any valid agreement, written or oral, of the members, or any written declaration of the sole member, as to the affairs and activities of a limited liability company and any series thereof. "Operating agreement" includes any amendments to the operating agreement.

(S) "Organizational documents" means any of the following:

(1) For a general partnership or foreign general partnership, its partnership agreement;

(2) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;

(3) For a limited liability limited partnership or foreign limited liability limited partnership, its certificate of limited partnership and partnership agreement;

(4) For a limited liability company or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;

(5) For a business or statutory trust or foreign business or statutory trust, its trust instrument, or comparable records as provided in its governing statute;

(6) For a for-profit corporation or foreign for-profit corporation, its articles of incorporation, regulations, and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute;

(7) For a nonprofit corporation or foreign nonprofit corporation, its articles of incorporation, regulations, and other agreements that are authorized by its governing statute or comparable records as provided in its governing statute;

(8) For a professional association, its articles of incorporation, regulations, and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute;

(9) For any other entity, the basic records that create the entity, determine its internal governance, and determine the relations among the persons that own it, are members of it, or govern it.

(T) "Organizer" means a person executing the initial articles of organization filed by the secretary of state in accordance with section 1706.16 of the Revised Code.

(U) "Person" means an individual, entity, trust, estate, government, custodian, nominee, trustee, personal representative, fiduciary, or any other individual, entity, or series thereof in its own or any representative capacity, in each case, whether foreign or domestic. As used in this division, "government" includes a country, state, county, or other political subdivision, agency, or instrumentality.

(V) "Principal office" means the location specified by a limited liability company, foreign limited liability company, or other entity as its principal office in the last filed record in which the limited liability company, foreign limited liability company, or other entity specified its principal office on the records of the secretary of state. If no such location has previously been specified, then "principal office" means the location reasonably apparent to an unaffiliated person as the principal executive office of the limited liability company, foreign limited liability company, or other entity.

(W) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in written or paper form through an automated process.

(X) "Sign" means, with the present intent to authenticate or adopt a record, either of the following:

(1) To execute or adopt a tangible symbol;

(2) To attach to or logically associate with the record an electronic symbol, sound, or process.

(Y) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(Z) "Surviving entity" means an entity into which one or more other entities are merged, whether the entity pre-existed the merger or was created pursuant to the merger.

(AA) "Tribunal" means a court or, if provided in the operating agreement or otherwise agreed, an arbitrator, arbitration panel, or other tribunal.

Sec. 1706.02. This chapter may be cited as the "Ohio Revised Limited Liability Company Act."

Sec. 1706.03. (A) A person knows a fact when either of the following is met:

(1) The person has actual knowledge of the fact.

(2) The person is deemed to know the fact under law other than this chapter.

(B) A person has notice of a fact when any of the following is met:

(1) The person knows of the fact.

(2) The person receives notification of the fact.

(3) The person has reason to know the fact from all the facts known to the person at the time.

(4) The person is deemed to have notice of the fact under division (D) of this section.

(C) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

(D) A person is deemed to have notice of the following:

(1) The matters included in a limited liability company's articles of organization under divisions (A)(1) to (3) of section 1706.16 of the Revised Code, upon the filing of the articles;

(2) A limited liability company's dissolution, ninety days after a certificate of dissolution under section 1706.471 of the Revised Code becomes effective;

(3) A limited liability company's merger or conversion, ninety days after a certificate of merger under section 1706.712 of the Revised Code or certificate of conversion under section 1706.722 of the Revised Code becomes effective.

(E) A member's knowledge, notice, or receipt of a notification of a fact relating to the limited liability company is not knowledge, notice, or receipt of a notification of a fact by the limited liability company solely by reason of the member's capacity as a member.

Sec. 1706.04. (A) A limited liability company is a separate legal entity. A limited liability company's status for tax purposes shall not affect its status as a separate legal entity formed under this chapter.

(B) A limited liability company has perpetual duration.

Sec. 1706.05. (A) A limited liability company may carry on any lawful activity, whether or not for profit.

(B) A limited liability company shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its operating agreement, together with any powers incidental thereto, including those powers and privileges necessary or convenient to the conduct, promotion, or attainment of the business, purposes, or activities of the limited liability company.

(C) Without limiting the general powers enumerated in division (B) of this section, a limited liability company shall have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge, or other swap agreements, or cap, floor, put, call, option, exchange, or collar agreements, derivative agreements, or other agreements similar to any of the foregoing.

(D) A series established under this chapter has the power and capacity, in the series' own name, to do all of the following:

(1) Sue and be sued;

(2) Contract;

(3) Hold and convey title to assets of the series, including real property, personal property, and intangible property;

(4) Grant liens and security interests in assets of the series.

Sec. 1706.06. (A) This chapter shall be construed to give maximum effect to the principles of freedom of contract and to the enforceability of operating agreements.

(B) Unless displaced by particular provisions of this chapter, principles of law and equity supplement this chapter.

(C) Rules that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(D) Sections 1309.406 and 1309.408 of the Revised Code do not apply to any interest in a limited liability company, including all rights, powers, and interests arising under an operating agreement or this chapter. This division prevails over those sections, and is expressly intended to permit the enforcement of the provisions of an operating agreement that would otherwise be ineffective under those sections.

(E) This chapter applies to all limited liability companies equally regardless of whether the limited liability company has one or more members or whether it is formed by a filing under section 1706.16 of the Revised Code or by merger, consolidation, conversion, or otherwise.

Sec. 1706.061. The law of this state governs all of the following:

(A) The organization and internal affairs of a limited liability company;

(B) The liability of a member as a member for the debts, obligations, or other liabilities of a limited liability company;

(C) The authority of the members and agents of a limited liability company;

(D) The availability of the assets of a limited liability company or series thereof for the obligations of the limited liability company or another series thereof.

Sec. 1706.07. (A) The name of a limited liability company shall contain the words "limited liability company" or the abbreviation "L.L.C.," "LLC," "limited," "ltd.," or "ltd".

(B) Except as provided in this section and in sections 1701.75, 1701.78, 1701.82, 1705.36, and 1705.37 of the Revised Code, the secretary of state shall not accept for filing in the secretary of state's office the articles of organization of a limited liability company if the company name set forth in the articles is not distinguishable on the records of the secretary of state from the name of any of the following:

(1) Any other limited liability company, whether the name is of a domestic limited liability company or of a foreign limited liability company registered as a foreign limited liability company under this chapter;

(2) Any corporation, whether the name is of a domestic corporation or of a foreign corporation holding a license as a foreign corporation under the laws of this state pursuant to Chapter 1701., 1702., or 1703. of the Revised Code;

(3) Any limited liability partnership, whether the name is of a domestic limited liability partnership or a foreign limited liability partnership registered pursuant to Chapter 1775. or 1776. of the Revised Code;

(4) Any limited partnership, whether the name is of a domestic limited partnership or a foreign limited partnership registered pursuant to Chapter 1782. of the Revised Code;

(5) Any trade name to which the exclusive right, at the time in question, is registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

(C) A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from the names identified in division (B) of of this section if there also is filed in the office of the secretary of state, on a form prescribed by the secretary of state, the consent of the other person or, in the case of a registered trade name, the person in whose name is registered the exclusive right to use the name, which consent is evidenced in a writing signed by any

authorized officer or any authorized representative of the other person.

(D) If a judicial sale or other transfer by order of a tribunal involves the right to use the name of a limited liability company or of a foreign limited liability company, then division (B) of this section shall not be applicable with respect to any person that is subject to the order.

(E) Any person that wishes to reserve a name for a proposed new limited liability company, a limited liability company that intends to change its name, or an assumed name for a foreign limited liability company whose name is not available may submit to the secretary of state, on a form prescribed by the secretary of state, a written application for the exclusive right to use a specified name as the name of the company. If the secretary of state finds, consistent with this section, that the specified name is available for use, the secretary of state shall file the application. From the date of the filing, the applicant has the exclusive right for one hundred eighty days to use the specified name as the name of the limited liability company, counting the date of the filing as the first of the one hundred eighty days. The right so obtained may be transferred by the applicant or other holder of the right by filing in the office of the secretary of state a written transfer, on a form prescribed by the secretary of state, that states the name and address of the transferee.

Sec. 1706.08. (A) Except as otherwise provided in divisions (B) and (C) of this section, both of the following apply:

(1) An operating agreement governs relations among the members as members and between the members and the limited liability company.

(2) To the extent that an operating agreement does not otherwise provide for a matter described in division (A)(1) of this section, this chapter governs the matter.

(B)(1) To the extent that, at law or in equity, a member, manager, or other person has duties, including fiduciary duties, to the limited liability company, or to another member or to another person that is a party to or is otherwise bound by an operating agreement, those duties may be expanded or restricted or eliminated by a written operating agreement. However, an operating agreement may not eliminate the implied covenant of good faith and fair dealing.

(2) A written operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties, including breach of fiduciary duties, of a member, manager, or other person to a limited liability company or to another member or to another person that is a party to or is otherwise bound by an operating agreement. However, an operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied covenant of good faith and fair dealing.

(3) A member, manager, or other person shall not be liable to a limited liability company or to another member or to another person that is a party to or is otherwise bound by an operating agreement for breach of fiduciary duty for the member's or other person's good faith reliance on the operating agreement.

(4) An operating agreement may provide either or both of the following:

(a) That, a member or assignee who fails to perform in accordance with, or to comply with the terms and conditions of, the operating agreement shall be subject to specified penalties or specified consequences;

(b) That at the time or upon the happening of events specified in the operating agreement, a member or assignee may be subject to specified penalties or consequences.

(5) A penalty or consequence that may be specified under division (B)(4) of this section may include any of the following:

(a) Reducing or eliminating the defaulting member's or assignee's proportionate interest in a limited liability company;

(b) Subordinating the member's or assignee's membership interest to that of nondefaulting members or assignees;

(c) Forcing a sale of the member's or assignee's membership interest;

(d) Forfeiting the defaulting member's or assignee's membership interest;

(e) The lending by other members or assignees of the amount necessary to meet the defaulting member's or assignee's commitment;

(f) A fixing of the value of the defaulting member's or assignee's membership interest by appraisal or by formula and redemption or sale of the membership interest at that value;

(g) Any other penalty or consequence.

(C) An operating agreement shall not do any of the following:

(1) Vary the nature of the limited liability company as a separate legal entity under division (A) of section 1706.04 of the Revised Code;

(2) Except as otherwise provided in division (B) of section 1706.082 of the Revised Code, restrict the rights under this chapter of a person other than a member, dissociated member, or assignee;

(3) Vary the power of a court under section 1706.171 of the Revised Code;

(4) Eliminate the implied covenant of good faith and fair dealing;

(5) Eliminate or limit the liability of a member or other person for any act or omission that constitutes a bad faith violation of the implied covenant of good faith and fair dealing;

(6) Waive the requirements of division (A) of section 1706.281 of the Revised Code;

(7) Waive the prohibition on issuance of a certificate of a membership interest in bearer form under division (D) of section 1706.341 of the Revised Code;

(8) Waive the requirements of division (B) of section 1706.761 of the Revised Code.

Sec. 1706.081. (A) A limited liability company is bound by and may enforce its operating agreement, whether or not the limited liability company has itself manifested assent to its operating agreement.

(B) A person that is admitted as a member of a limited liability company becomes a party to and assents to the operating agreement subject to division (A) of section 1706.281 of the Revised Code.

(C) Two or more persons intending to be the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement will become its operating agreement. One person intending to be the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the operating agreement.

(D) The operating agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the operating agreement.

Sec. 1706.082. (A) An operating agreement may be amended upon the consent of all the

members of a limited liability company or in such other manner authorized by the operating agreement. If an operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law; except that the approval of any person may be waived by that person and any conditions may be waived by all persons for whose benefit those conditions were intended.

(B) An operating agreement may provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth in the operating agreement.

(C) The obligations of a limited liability company and its members to a person in the person's capacity as an assignee or dissociated member are governed by the operating agreement. An assignee and dissociated member are bound by the operating agreement.

Sec. 1706.09. (A) Each limited liability company and foreign limited liability company that has an effective registration as a foreign limited liability company under section 1706.511 of the Revised Code shall maintain continuously in this state an agent for service of process on the company. The agent shall be one of the following:

(1) A natural person who is a resident of this state;

(2) A domestic or foreign corporation, nonprofit corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited partnership association, professional association, business trust, or unincorporated nonprofit association that has a business address in this state. If the agent is an entity other than a domestic corporation, the agent shall meet the requirements of Title XVII of the Revised Code for an entity of the agent's type to transact business or exercise privileges in this state.

(B)(1) The secretary of state shall not accept original articles of organization of a limited liability company or an original registration of a foreign limited liability company for filing unless both of the following accompany the articles or registration:

(a) A written appointment of an agent as described in division (A) of this section that is signed by an authorized representative of the limited liability company or foreign limited liability company;

(b) A written acceptance of the appointment that is signed by the designated agent on a form prescribed by the secretary of state.

(2) In cases not covered by division (B)(1) of this section, the company shall appoint the agent described in division (A) of this section and shall file with the secretary of state, on a form prescribed by the secretary of state, a written appointment of that agent that is signed by an authorized representative of the company and a written acceptance of the appointment that is signed by the designated agent.

(C) The written appointment of an agent shall set forth the name and address in this state of the agent, including the street and number or other particular description, and shall otherwise be in such form as the secretary of state prescribes. The secretary of state shall keep a record of the names of limited liability companies and foreign limited liability companies, and the names and addresses of their respective agents.

(D) If any agent described in division (A) of this section dies, resigns, or moves outside of this state, the limited liability company or foreign limited liability company shall appoint forthwith

another agent and file with the secretary of state, on a form prescribed by the secretary of state, a written appointment of the agent and acceptance of appointment as described in division (B)(2) of this section.

(E) If the agent described in division (A) of this section changes the agent's address from the address stated in the records of the secretary of state, the agent or the limited liability company or foreign limited liability company shall file forthwith with the secretary of state, on a form prescribed by the secretary of state, a written statement setting forth the new address.

(F) An agent described in division (A) of this section may resign by filing with the secretary of state, on a form prescribed by the secretary of state, a written notice of resignation that is signed by the agent and by mailing a copy of that notice to the limited liability company or foreign limited liability company at the current or last known address of its principal office. The notice shall be mailed to the company on or prior to the date that the notice is filed with the secretary of state and shall set forth the name of the company, the name and current address of the agent, the current or last known address, including the street and number or other particular description, of the company's principal office, a statement of the resignation of the agent, and a statement that a copy of the notice has been sent to the company within the time and in the manner specified in this division. The authority of the resigning agent terminates thirty days after the filing of the notice with the secretary of state.

(G) A limited liability company or foreign limited liability company may revoke the appointment of its agent described in division (A) of this section by filing with the secretary of state, on a form prescribed by the secretary of state, a written appointment of another agent and an acceptance of appointment in the manner described in division (B)(2) of this section and a statement indicating that the appointment of the former agent is revoked.

(H)(1) Any legal process, notice, or demand required or permitted by law to be served upon a limited liability company may be served upon the company as follows:

(a) By delivering a copy of the process, notice, or demand to the address of the agent in this state as contained in the records of the secretary of state;

(b) If the agent described in division (A) of this section is a natural person, by delivering a copy of the process, notice, or demand to the agent.

(2) If the agent described in division (A) of this section cannot be found or no longer has the address that is stated in the records of the secretary of state or the limited liability company or foreign limited liability company has failed to maintain an agent as required by this section and if the party or the agent or representative of the party that desires service of the process, notice, or demand files with the secretary of state an affidavit that states that one of those circumstances exists and states the most recent address of the company that the party who desires service has been able to ascertain after a diligent search, then the service of the process, notice, or demand upon the secretary of state as the agent of the company may be initiated by delivering to the secretary of state four copies of the process, notice, or demand accompanied by a fee of five dollars. The secretary of state shall give forthwith notice of that delivery to the company at either its principal office as shown upon the secretary of state's records or at any different address specified in the affidavit of the party desiring service and shall forward to the company at either address by certified mail, return receipt requested, a copy of the process, notice, or demand. Service upon the company is made when the secretary of

state gives the notice and forwards the process, notice, or demand as set forth in division (H)(2) of this section.

(I) The secretary of state shall keep a record of each process, notice, and demand that pertains to a limited liability company or foreign limited liability company and that is delivered to the secretary of state's office under this section or another law of this state that authorizes service upon the secretary of state in connection with a limited liability company or foreign limited liability company. In that record, the secretary of state shall record the time of each delivery of that type and the secretary of state's subsequent action with respect to the process, notice, or demand.

(J) This section does not limit or affect the right to serve any process, notice, or demand upon a limited liability company or foreign limited liability company in any other manner permitted by law.

(K) A written appointment of an agent or a written statement filed by a limited liability company or foreign limited liability company with the secretary of state shall be signed by an authorized representative of the company.

(L) Upon the failure of a limited liability company or foreign limited liability company to continuously maintain a statutory agent or file a change of name or address of a statutory agent, the secretary of state shall give notice thereof by ordinary or electronic mail to the company at the electronic mail address provided to the secretary of state, or at the address set forth in the notice of resignation. Unless the default is cured within thirty days after the mailing by the secretary of state of the notice or within any further period of time that the secretary of state grants, upon the expiration of that period of time from the date of the mailing, the articles of the limited liability company or the registration of the foreign limited liability company shall be canceled without further notice or action by the secretary of state. The secretary of state shall make a notation of the cancellation on the secretary of state's records.

A limited liability company or foreign limited liability company whose articles or registration has been canceled may be reinstated by filing, on a form prescribed by the secretary of state, an application for reinstatement and the required appointment of agent or required statement, and by paying the filing fee specified in division (Q) of section 111.16 of the Revised Code. The rights and privileges of a limited liability company or foreign limited liability company whose articles or registration has been reinstated are subject to section 1706.46 of the Revised Code. The secretary of state shall furnish the tax commissioner a monthly list of all limited liability companies and foreign limited liability companies canceled and reinstated under this division.

Sec. 1706.16. (A) In order to form a limited liability company, one or more persons shall execute articles of organization and deliver the articles to the secretary of state for filing. The articles of organization shall set forth all of the following:

- (1) The name of the limited liability company;
- (2) The name and street address of the limited liability company's statutory agent and a written acceptance of the appointment that is signed by the agent;
- (3) If applicable, a statement as provided in division (B)(3) of section 1706.761 of the Revised Code;
- (4) Any other matters the organizers or the members determine to include in the articles of organization.

(B) A limited liability company is formed when the articles of organization are filed by the secretary of state or at any later date or time specified in the articles of organization.

(C) The fact that articles of organization are on file in the office of the secretary of state is notice of the matters required to be included by divisions (A)(1) to (3) of this section, but is not notice of any other fact.

(D) An operating agreement may be entered into before, at the time of, or after the filing of the articles of organization. Regardless of when the operating agreement is entered into, it may be made effective as of the filing of the articles of organization or any other time provided in the operating agreement.

Sec. 1706.161. (A) The articles of organization may be amended at any time.

(B) The articles of organization may be restated with or without amendment at any time.

(C) To amend its articles of organization, a limited liability company shall deliver to the secretary of state for filing, on a form prescribed by the secretary of state, a certificate of amendment containing both of the following information:

(1) The name and registration number of the limited liability company;

(2) The changes the amendment makes to the articles of organization as most recently amended or restated.

(D) Restated articles of organization shall be delivered to the secretary of state for filing in the same manner as an amendment. Restated articles of organization shall be designated as such in the heading and state in the heading or in an introductory paragraph the limited liability company's name and the date of the filing of its articles of organization. Any amendment or change effected in connection with the restatement of the articles of organization shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect the amendment or change.

(E) The original articles of organization, as amended or supplemented, shall be superseded by the restated articles of organization. Thereafter, the articles of organization, including any further amendment or changes made thereby, shall be the articles of organization of the limited liability company, but the original effective date of formation shall remain unchanged.

Sec. 1706.17. (A) A record delivered to the secretary of state for filing pursuant to this chapter shall be signed as provided by this section.

(1) A limited liability company's initial articles of organization shall be signed by at least one person.

(2) A record signed on behalf of a limited liability company shall be signed by a person authorized by the limited liability company.

(3) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the limited liability company's activities under division (A) of section 1706.472 of the Revised Code or a person appointed under division (B) of section 1706.472 of the Revised Code to wind up those activities.

(4) A statement of denial by a person under section 1706.20 of the Revised Code shall be signed by that person.

(5) Any other record shall be signed by the person on whose behalf the record is delivered to the secretary of state.

(B) Any record to be filed under this chapter may be signed by an agent, including an attorney-in-fact. Powers of attorney relating to the signing of the record need not be delivered to the secretary of state.

Sec. 1706.171. (A) If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing under this chapter does not do so, any other person that is aggrieved by that failure to sign may petition the appropriate court to order any of the following:

(1) The person to sign the record;

(2) The person to deliver the record to the secretary of state for filing;

(3) The secretary of state to file the record unsigned.

(B) If a petitioner under division (A) of this section is not the limited liability company or foreign limited liability company to whom the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action. A person aggrieved under division (A) of this section may seek the remedies provided in that division in a separate action against the person required to sign the record or as a part of any other action concerning the limited liability company in which the person required to sign the record is made a party.

(C) A record filed unsigned pursuant to this section is effective without being signed.

(D) A court may award reasonable expenses, including reasonable attorney's fees, to the prevailing party, in whole or in part, with respect to any claim made under division (A) of this section.

Sec. 1706.172. (A) Each record authorized or required to be delivered to the secretary of state for filing under this chapter shall meet all of the following requirements:

(1) The record shall contain all information required by the law of this state to be contained in the record but, unless otherwise provided by law, shall not be required to contain other information.

(2) The record shall be on or in a medium and in such form acceptable to the secretary of state and from which the secretary of state may create a record that contains all of the information stated in the record. The secretary of state may require that the record be delivered by any one or more means or on or in any one or more media acceptable to the secretary of state. The secretary of state is not required to file a record that is not delivered by a means and in a medium that complies with the requirements then established by the secretary of state for the delivery and filing of records. If the secretary of state permits a record to be delivered on paper, the record shall be typewritten or machine printed, and the secretary of state may impose reasonable requirements upon the dimensions, legibility, quality, and color of the paper and typewriting or printing and upon the format and other attributes of any record that is delivered electronically. The secretary of state shall, at the earliest practicable time, allow for the delivery of a record for filing to be accomplished electronically, without the necessity for the delivery of a physical original record or the image thereof, if all required information is delivered and is readily retrievable from the data delivered. If the delivery of a record for filing is required to be accomplished electronically, that record shall not be accompanied by any physical record unless the secretary of state permits that accompaniment.

(3) The record shall be in English. A person's name set forth in the record need not be in English if expressed in English letters or Arabic or Roman numerals. Records of a foreign person need not be in English if accompanied by a reasonably authenticated English translation.

(B) Unless the secretary of state determines that a record does not comply with the filing

requirements of this chapter, the secretary of state shall file the record and send a certificate and a receipt for the fees to the person who submitted the record.

(C) Upon request and payment of the requisite fee, the secretary of state shall furnish to the requester a certified copy of a requested record.

(D) Except as otherwise provided in division (F) of section 1706.09 and section 1706.173 of the Revised Code, a record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date of not more than ninety days following the date of receipt by the secretary of state. Subject to division (F) of section 1706.09 and section 1706.173 of the Revised Code, a record filed by the secretary of state is effective as follows:

(1) If the record does not specify an effective time and does not specify a delayed effective date, on the date the record is filed as evidenced by the secretary of state's endorsement of the date on the record;

(2) If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(3) If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of the following:

(a) The specified date;

(b) The ninetieth day after the record is filed.

(4) If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of the following:

(a) The specified date;

(b) The ninetieth day after the record is filed.

Sec. 1706.173. (A) A limited liability company or foreign limited liability company may deliver to the secretary of state for filing a certificate of correction to correct a record previously delivered by the limited liability company or foreign limited liability company to the secretary of state and filed by the secretary of state if at the time of filing the record contained incorrect or inaccurate information or was defectively signed.

(B) A certificate of correction under division (A) of this section shall not state a delayed effective date and shall do all of the following:

(1) Describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) Specify the inaccurate information or the defect in the signing;

(3) Correct the incorrect or inaccurate information or defective signature.

(C) When filed by the secretary of state, a certificate of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed as to persons that previously relied on the uncorrected record and would be adversely affected by the correction.

Sec. 1706.174. (A) A person who signs a record authorized or required to be filed under this chapter thereby affirms under penalty for falsification as described in section 2921.13 of the Revised Code that the facts stated in the record are true in all material respects.

(B) If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains incorrect or inaccurate information, a person that suffers a loss by

reasonable reliance on the information may recover damages for the loss from a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be incorrect or inaccurate at the time the record was signed.

Sec. 1706.175. (A) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of full force and effect for a limited liability company if the records filed in the office of the secretary of state show that the limited liability company has been formed under the laws of this state. A certificate of full force and effect shall state all of the following:

(1) The limited liability company's name;

(2) The limited liability company's date of formation;

(3) That the limited liability company is in full force and effect on the records of the secretary of state.

(B) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of registration for a foreign limited liability company if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of registration for the foreign limited liability company, has not canceled the certificate of registration for the foreign limited liability company, and has not filed a statement of cancellation of the certificate of registration for the foreign limited liability company. A certificate of registration shall state both of the following:

(1) The foreign limited liability company's name;

(2) That the foreign limited liability company is authorized to transact business in this state.

(C) Subject to any qualification stated in the certificate, a certificate of existence or certificate of registration issued by the secretary of state is, for a period of thirty days after the date of such certificate, conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business in this state.

Sec. 1706.18. No person shall have the power to bind the limited liability company, or a series thereof, except:

(A) To the extent the person is authorized to act as the agent of the limited liability company or a series thereof under or pursuant to the operating agreement;

(B) To the extent the person is authorized to act as the agent of the limited liability company or a series thereof pursuant to division (A) of section 1706.30 of the Revised Code;

(C) To the extent provided in section 1706.19 of the Revised Code;

(D) To the extent provided by law other than this chapter.

Sec. 1706.19. (A) A limited liability company, on behalf of itself or a series thereof, may deliver to the secretary of state for filing on a form prescribed by the secretary of state a statement of authority. Such a statement:

(1) Shall include the name and registration number of the limited liability company;

(2) May state the authority of a specific person, or, with respect to any position that exists in or with respect to the limited liability company or series thereof, of all persons holding the position, to enter into transactions on behalf of the limited liability company or series thereof.

(B) To amend or cancel a statement of authority filed by the secretary of state, a limited liability company shall, on behalf of itself or a series thereof, deliver to the secretary of state for filing an amendment or cancellation on a form prescribed by the secretary of state stating all of the

following:

(1) The name and registration number of the limited liability company;

(2) The date of filing of the statement of authority to which the amendment or cancellation statement pertains;

(3) The contents of the amendment or a declaration that the statement to which it pertains is canceled.

(C) An effective statement of authority is conclusive in favor of a person that gives value in reliance on the statement, except to the extent that when the person gives value the person has knowledge to the contrary.

(D) Upon filing, a certificate of dissolution filed pursuant to division (B)(1) of section 1706.471 of the Revised Code operates as a cancellation, under division (B) of this section, of each statement of authority.

(E) After a certificate of dissolution becomes effective, a limited liability company may, on behalf of itself or a series thereof, deliver to the secretary of state for filing a statement of authority that is designated as a post-dissolution or post-cancellation statement of authority.

(F) Upon filing, a statement of denial filed pursuant to section 1706.20 of the Revised Code operates as an amendment, under division (B) of this section, of the statement of authority to which the statement of denial pertains.

Sec. 1706.20. A person named in a filed statement of authority may deliver to the secretary of state for filing on a form prescribed by the secretary of state a statement of denial that does both of the following:

(A) States the name and registration number of the limited liability company and the date of filing of the statement of authority to which the statement of denial pertains;

(B) Denies the person's authority.

Sec. 1706.26. A person who is a member of a limited liability company is not liable, solely by reason of being a member, for a debt, obligation, or liability of the limited liability company or a series thereof, whether arising in contract, tort, or otherwise; or for the acts or omissions of any other member, agent, or employee of the limited liability company or a series thereof. The failure of a limited liability company or any of its members to observe any formalities relating to the exercise of the limited liability company's powers or the management of its activities is not a factor to consider in, or a ground for, imposing liability on the members for the debts, obligations, or liability of the limited liability company.

Sec. 1706.27. (A) In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the occurrence of either of the following:

(1) If the organizer was authorized by one or more persons intending to be members of the limited liability company to file the articles of organization on their behalf, the formation of the limited liability company;

(2) If the organizer was not authorized by any other person intending to be members of the limited liability company, each organizer shall have the authority of a member of the limited liability company upon the formation of the limited liability company until the admission of the initial member of the limited liability company.

(B) After formation of a limited liability company, a person may be admitted as a member of

the limited liability company in any of the following manners:

(1) As provided in the operating agreement;

(2) As the result of a transaction effective under sections 1706.71 to 1706.74 of the Revised Code;

(3) With the consent of all the members or in the case of a limited liability company having only one member, the consent of the member;

(4) If, within ninety consecutive days after the occurrence of the dissociation of the last remaining member, both of the following occur:

(a) All holders of the membership interest last assigned by the last person to have been a member consent to the designation of a person to be admitted as a member;

(b) The designated person consents to be admitted as a member effective as of the date the last person to have been a member ceased to be a member.

(C) A person may be admitted as a member without acquiring a membership interest and without making or being obligated to make a contribution to the limited liability company. A person may be admitted as the sole member without acquiring a membership interest and without making or being obligated to make a contribution to the limited liability company.

Sec. 1706.28. A contribution of a member to a limited liability company, or a series thereof, may consist of cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services.

Sec. 1706.281. (A) A promise by a member to make a contribution to a limited liability company, or a series thereof, is not enforceable unless set forth in a writing signed by the member.

(B) A member's obligation to make a contribution to a limited liability company, or a series thereof, is not excused by the member's death, disability, or other inability to perform personally. If a member does not make a contribution required by an enforceable promise, the member or the member's estate is obligated, at the election of the limited liability company, or a series thereof, to contribute money equal to the value of the portion of the contribution that has not been made. The election shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company, or a series thereof, may have under the operating agreement or applicable law.

(C)(1) The obligation of a member to make a contribution to a limited liability company may be compromised only by consent of all the members. A conditional obligation of a member to make a contribution to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by that member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company before the time the call occurs.

(2) The obligation of a member associated with a series to make a contribution to the series may be compromised only by consent of all the members associated with that series. A conditional obligation of a member to make a contribution to a series may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by that member. Conditional obligations include contributions payable upon a discretionary call of that series before the time the call occurs.

(3) Division (C)(1) of this section shall not apply to a member's obligation to make a contribution to a series of a limited liability company.

Sec. 1706.29. (A)(1) All members shall share equally in any distributions made by a limited liability company before its dissolution and winding up.

(2) A member has a right to a distribution before the dissolution and winding up of a limited liability company as provided in the operating agreement. A decision to make a distribution before the dissolution and winding up of the limited liability company is a decision in the ordinary course of activities of the limited liability company. A member's dissociation does not entitle the dissociated member to a distribution.

(3) A member does not have a right to demand and receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in division (C) of section 1706.475 of the Revised Code, a limited liability company may distribute an asset in kind if each member receives a percentage of the asset in proportion to the member's share of contributions.

(4) If a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

(B)(1) All members associated with a series shall share equally in any distributions made by the series before its dissolution and winding up.

(2) A member associated with a series has a right to a distribution before the dissolution and winding up of the series as provided in the operating agreement. A decision of the series to make a distribution before the dissolution and winding up of the series is a decision in the ordinary course of activities of the series. A member's dissociation from a series with which the member is associated does not entitle the dissociated member to a distribution from the series.

(3) A member associated with a series does not have a right to demand and receive a distribution from the series in any form other than money. Except as otherwise provided in division (C) of section 1706.7613 of the Revised Code, a series may distribute an asset in kind if each member associated with the series receives a percentage of the asset in proportion to the member's share of distributions from the series.

(4) If a member associated with a series becomes entitled to receive a distribution from the series, the member has the status of, and is entitled to all remedies available to, a creditor of the series with respect to the distribution.

(C) Division (A) of this section does not apply to a distribution made by a series.

Sec. 1706.30. (A)(1) The activities and affairs of the limited liability company shall be under the direction, and subject to the oversight, of its members.

(2) The activities and affairs of a series shall be under the direction, and subject to the oversight, of the members associated with the series.

(3) Division (A)(1) of this section shall not apply to the activities and affairs of a series.

(B)(1) Except as provided in division (C) of this section, a matter in the ordinary course of activities of the limited liability company may be decided by a majority of the members.

(2) Except as provided in division (C) of this section, a matter in the ordinary course of activities of a series may be decided by a majority of the members associated with the series.

(3) Division (B)(1) of this section shall not apply to matters of a series.

(C)(1) The consent of all members is required to do any of the following:

(a) Amend the operating agreement;

(b) File a petition of the limited liability company for relief under Title 11 of the United States Code, or a successor statute of general application, or a comparable federal, state, or foreign law governing insolvency;

(c) Undertake any act outside the ordinary course of the limited liability company's activities;

(d) Undertake, authorize, or approve any other act or matter for which this chapter requires the consent of all members.

(2) The consent of all members associated with a series is required to do either of the following:

(a) Undertake any act outside the ordinary course of the series' activities;

(b) Undertake, authorize, or approve any other act or matter for which this chapter requires the consent of all the members associated with a series.

(D) Any matter requiring the consent of members may be decided without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

(E) This chapter does not entitle a member to remuneration for services performed for a limited liability company.

Sec. 1706.31. (A) Unless either a written operating agreement for the limited liability company or a written agreement with a member establishes additional fiduciary duties, in the event that there have been designated one or more managers to supervise or manage the activities or affairs of the limited liability company, the only obligation a member owes, in the member's capacity as a member, to the limited liability company and the other members is to discharge the member's duties and obligations under this chapter and the operating agreement in accordance with division (E) of this section. Divisions (C) and (D) of this section shall not apply to such a member.

(B) Unless either a written operating agreement for the limited liability company or a written agreement with a member establishes additional fiduciary duties or the duties of the member have been modified, waived, or eliminated as contemplated by section 1706.08 of the Revised Code, in the event that there have not been designated one or more managers to supervise or manage the activities of the limited liability company, the only fiduciary duties a member owes to the limited liability company and the other members is the duty of loyalty and the duty of care set forth in divisions (C) and (D) of this section.

(C) A member's duty of loyalty to the limited liability company and the other members is limited to the following:

(1) To account to the limited liability company and hold for it any property, profit, or benefit derived by the member in the conduct and winding up of the limited liability company business or derived from a use by the member of limited liability company property or from the appropriation of a limited liability company opportunity;

(2) To refrain from dealing with the limited liability company in the conduct or winding up of the limited liability company business as or on behalf of a party having an interest adverse to the limited liability company.

(D) A member's duty of care to the limited liability company and the other members in the conduct and winding up of the limited liability company business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of

law.

(E) A member shall discharge the member's duties to the limited liability company and the other members under this chapter and under the operating agreement and exercise any rights consistent with the implied covenant of good faith and fair dealing.

(F) A member does not violate a duty or obligation under this chapter or under the operating agreement merely because the member's conduct furthers the member's own interest.

(G) All the members of a limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty. It is a defense to a claim under division (C)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company. If, as permitted, by this division or the limited liability company's operating agreement, a member enters into a transaction with a limited liability company that otherwise would be prohibited by division (C) (2) of this section, the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

(H) This section applies to a person winding up the limited liability company business as the personal or legal representative of the last surviving member as if the person were a member.

Sec. 1706.311. (A) Unless either a written operating agreement for the limited liability company or a written agreement with a manager establishes additional fiduciary duties or the duties of the manager have been modified, waived, or eliminated as contemplated by section 1706.08 of the Revised Code, the only fiduciary duties of a manager to the limited liability company or its members are the duty of loyalty and the duty of care set forth in divisions (B) and (C) of this section.

(B) A manager's duty of loyalty to the limited liability company and its members is limited to the following:

(1) To account to the limited liability company and hold for it any property, profit, or benefit derived by the manager in the conduct and winding up of the limited liability company business or derived from a use by the manager of limited liability company property or from the appropriation of a limited liability company opportunity;

(2) To refrain from dealing with the limited liability company in the conduct or winding up of the limited liability company business as or on behalf of a party having an interest adverse to the limited liability company.

(C) A manager's duty of care to the limited liability company in the conduct and winding up of the limited liability company activities is limited to acting in good faith, in a manner the manager reasonably believes to be in or not opposed to the best interests of the limited liability company.

(D) For purposes of division (C) of this section, both of the following apply:

(1) A manager of a limited liability company shall not be determined to have violated the manager's duties under division (C) of this section unless it is proved that the manager has not acted in good faith, in a manner the manager reasonably believes to be in or not opposed to the best interests of the limited liability company.

(2) A manager shall not be considered to be acting in good faith if the manager has knowledge concerning the matter in question that would cause reliance on information, opinions, reports, or statements that are prepared or presented by any of the persons described in section 1706.331 of the Revised Code to be unwarranted.

(E) A manager shall be liable for monetary relief for a violation of the manager's duties under division (C) of this section only if it is proved that the manager's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the limited liability company or undertaken with reckless disregard for the best interests of the company. This division does not apply if, and only to the extent that, at the time of a manager's act or omission that is the subject of complaint, either of the following is true:

(1) The articles or the operating agreement of the limited liability company state by specific reference to division (E) of this section that the provisions of this division do not apply to the limited liability company.

(2) A written agreement between the manager and the limited liability company states by specific reference to division (E) of this section that the provisions of this division do not apply to the manager.

(F) All the members of a limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty. It is a defense to a claim under division (B)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company. If, as permitted by this division or the operating agreement, a manager enters into a transaction with the limited liability company that otherwise would be prohibited by division (B)(2) of this section, the manager's rights and obligations arising from the transaction are the same as those of a person that is not a manager.

(G) A manager shall discharge the duties to the limited liability company and the members under this chapter and under the operating agreement and exercise any rights consistently with the implied covenant of good faith and fair dealing.

(H) Nothing in this section affects the duties of a manager who acts in any capacity other than the manager's capacity as a manager. If a manager of a limited liability company also is a member of the limited liability company, the actions taken in the capacity as a member of the limited liability company shall be subject to section 1706.31 of the Revised Code. Nothing in this section affects any contractual obligations of a manager to the limited liability company.

Sec. 1706.32. A limited liability company, or a series thereof, may indemnify and hold harmless a member or other person, pay in advance or reimburse expenses incurred by a member or other person, and purchase and maintain insurance on behalf of a member or other person.

Sec. 1706.33. (A) Upon reasonable notice provided to the limited liability company, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(B) A limited liability company may charge a person that makes a demand under this section the reasonable costs of labor and materials for copying.

(C) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under division (E) of this section applies both to the agent or legal representative and the member or dissociated member.

(D) The rights under this section do not extend to an assignee who is not admitted as a member.

(E) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may do either of the following:

(1) Impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient;

(2) Keep confidential from the members and any other persons, for such period of time as the limited liability company deems reasonable, any information that the limited liability company reasonably believes to be in the nature of trade secrets or other information the disclosure of which the limited liability company in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its activities, or that the limited liability company is required by law or by agreement with a third party to keep confidential.

Sec. 1706.331. Each member and agent of a limited liability company shall be fully protected in relying in good faith upon the records of the limited liability company and upon information, opinions, reports, or statements presented by another member or agent of the limited liability company, or by any other person as to matters the member or the agent reasonably believes are within that other person's professional or expert competence, including information, opinions, reports, or statements as to any of the following:

(A) The value and amount of the assets, liabilities, profits, or losses of the limited liability company, or a series thereof;

(B) The value and amount of assets or reserves or contracts, agreements, or other undertakings that would be sufficient to pay claims and obligations of the limited liability company, or series thereof, or to make reasonable provision to pay those claims and obligations;

(C) Any other facts pertinent to the existence and amount of assets from which distributions to members or creditors might properly be paid.

Sec. 1706.332. If a member dies, the deceased member's personal representative or other legal representative may, for purposes of settling the estate, exercise the rights of a current member under section 1706.33 of the Revised Code.

Sec. 1706.34. The only interest of a member that is assignable is the member's membership interest. A membership interest is personal property.

Sec. 1706.341. (A) An assignment, in whole or in part, of a membership interest:

(1) Is permissible;

(2)(a) Does not by itself cause a member to cease to be a member of the limited liability company;

(b) Does not by itself cause a member to cease to be associated with a series of the limited liability company.

(3) Does not by itself cause a dissolution and winding up of the limited liability company, or a series thereof;

(4) Subject to section 1706.332 of the Revised Code, does not entitle the assignee to do either of the following:

(a) Participate in the management or conduct of the activities of the limited liability company, or a series thereof;

(b) Have access to records or other information concerning the activities of the limited liability company, or a series thereof.

(B) An assignee has the right to receive, in accordance with the assignment, distributions to which the assignor would otherwise be entitled.

(C) A membership interest may be evidenced by a certificate of membership interest issued by the limited liability company, or a series thereof. An operating agreement may provide for the assignment of the membership interest represented by the certificate and make other provisions with respect to the certificate.

(D) A limited liability company, or a series thereof, shall not issue a certificate of membership interest in bearer form.

(E) A limited liability company, or a series thereof, need not give effect to an assignee's rights under this section until the limited liability company, or a series thereof, has notice of the assignment.

(F) Except as otherwise provided in division (J) of section 1706.411 of the Revised Code, when a member assigns a membership interest, the assignor retains the rights of a member other than the right to distributions assigned and retains all duties and obligations of a member.

(G) When a member assigns a membership interest to a person that is admitted as a member with respect to the assigned interest, the assignee is only liable for the member's obligations under section 1706.281 of the Revised Code to the extent that the obligations are known to the assignee when the assignee voluntarily accepts admission as a member.

Sec. 1706.342. (A) On application to a court of competent jurisdiction by any judgment creditor of a member or assignee, the court may charge the membership interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged and after the limited liability company has been served with the charging order, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the membership interest.

(B) After the limited liability company is served with a charging order, the limited liability company or any member shall be entitled to pay to or deposit with the clerk of the court so issuing the charging order any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the charged membership interest, and the payment or deposit shall discharge the limited liability company and the judgment debtor from liability for the amount so paid or deposited and any interest that might accrue thereon. Upon receipt of the payment or deposit, the clerk of the court shall notify the judgment creditor of the receipt of the payment or deposit. The judgment creditor shall, after any payment or deposit into the court, petition the court for payment of so much of the amount paid or deposited as may be necessary to pay the judgment creditor's judgment. To the extent the court has excess amounts paid or deposited on hand after the payment to the judgment creditor, the excess amounts paid or deposited shall be distributed to the judgment debtor, and the charging order shall be extinguished. The court may, in its discretion, order the clerk to deposit, pending the judgment creditor's petition, any money paid or deposited with the clerk, in an interest bearing account at a bank authorized to receive deposits of public funds.

(C) A charging order constitutes a lien on the judgment debtor's membership interest.

(D) Subject to division (C) of this section, both of the following apply:

(1) A judgment debtor that is a member retains the rights of a member and remains subject to all duties and obligations of a member.

(2) A judgment debtor that is an assignee retains the rights of an assignee and remains subject to all duties and obligations of an assignee.

(E) This chapter does not deprive any member or assignee of the benefit of any exemption laws applicable to the member's or assignee's membership interest.

(F) This section provides the sole and exclusive remedy by which a judgment creditor of a member or assignee may satisfy a judgment out of the judgment debtor's membership interest, and the judgment creditor shall have no right to foreclose, under this chapter or any other law, upon the charging order, the charging order lien, or the judgment debtor's membership interest. A judgment creditor of a member or assignee has no right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the judgment debtor's membership interest or the property of a limited liability company. Court orders for actions or requests for accounts and inquiries that the judgment debtor might have made to the limited liability company are not available to a judgment creditor attempting to satisfy the judgment out of the judgment debtor's membership interest and may not be ordered by a court.

Sec. 1706.41. (A) A person shall not voluntarily dissociate from a limited liability company.

(B) A person's dissociation from a limited liability company is wrongful only if one of the following applies:

(1) The dissociation is in breach of an express provision of the operating agreement.

(2) The person is expelled as a member by a determination of a tribunal under division (D) of section 1706.411 of the Revised Code.

(3) The person is dissociated by becoming a debtor in bankruptcy or making a general assignment for the benefit of creditors.

(C) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 1706.61 of the Revised Code, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or liability of the member to the limited liability company or the other members.

Sec. 1706.411. A person is dissociated as a member from a limited liability company in any of the following circumstances:

(A) An event stated in the operating agreement as causing the person's dissociation occurs.

(B) The person is expelled as a member pursuant to the operating agreement.

(C) The person is expelled as a member by the unanimous consent of the other members if any of the following apply:

(1) It is unlawful to carry on the limited liability company's activities with the person as a member.

(2) The person is an entity and, within ninety days after the limited liability company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, or its right to transact business has been suspended by its jurisdiction of formation, the statement of dissolution or the equivalent has not been revoked or its right to transact business has not been reinstated.

(3) The person is an entity and, within ninety days after the limited liability company notifies the person that it will be expelled as a member because the person has been dissolved and its activities are being wound up, the entity has not been reinstated or the dissolution and winding up have not been revoked or canceled.

(D) On application by the limited liability company, the person is expelled as a member by tribunal order for any of the following reasons:

(1) The person has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the limited liability company's activities.

(2) The person has willfully or persistently committed, or is willfully or persistently committing, a material breach of the operating agreement or the person's duties or obligations under this chapter or other applicable law.

(3) The person has engaged, or is engaging, in conduct relating to the limited liability company's activities that makes it not reasonably practicable to carry on the activities with the person as a member.

(E) In the case of a person who is an individual, the person dies, a guardian or general conservator is appointed for the person, or a tribunal determines that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement.

(F) The person becomes a debtor in bankruptcy, executes an assignment for the benefit of creditors, or seeks, consents, or acquiesces to the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property. This division shall not apply to a person who is the sole remaining member of a limited liability company.

(G) In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire membership interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor trustee.

(H) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire membership interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor personal representative.

(I) In the case of a member that is not an individual, the legal existence of the person otherwise terminates.

(J) There has been an assignment of all of the person's membership interest other than an assignment for security purposes.

Sec. 1706.412. (A) A person who has dissociated as a member shall have no right to participate as a member in the activities and affairs of the limited liability company and is entitled only to receive the distributions to which that member would have been entitled if the member had not dissociated.

(B) Upon a person's dissociation, the member's duty of loyalty and duty of care under divisions (C) and (D) of section 1706.31 of the Revised Code continue only with regard to matters arising and events occurring before the member's dissociation, unless the member participates in winding up the limited liability company's business pursuant to section 1706.472 of the Revised Code.

(C) A person's dissociation as a member does not of itself discharge the person from any debt, obligation, or liability to a limited liability company or the other members that the person incurred while a member.

Sec. 1706.46. (A) Except as otherwise provided in this division, upon reinstatement of a limited liability company's articles or a foreign limited liability company's registration in accordance with section 1706.09 of the Revised Code, the rights and privileges, including all real or personal property rights and credits and all contract and other rights, of the company existing at the time its articles or registration were canceled shall be fully vested in the company as if its articles or registration had not been canceled, and the company shall again be entitled to exercise the rights and privileges authorized by its articles. The name of a company whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year after the date of the cancellation of its articles and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, trade name, or assumed name has been filed, the name of which is not distinguishable upon the record as provided in section 1706.07 of the Revised Code, the secretary of state shall require the applicant for reinstatement, as a condition prerequisite to such reinstatement, to amend its articles or registration by changing its name.

(B) Upon reinstatement in accordance with section 1706.09 of the Revised Code, both of the following apply to the exercise of or an attempt to exercise any rights or privileges, including entering into or performing any contracts, on behalf of the company by an officer, agent, or employee of the company, after cancellation and prior to reinstatement of the articles or registration:

(1) The exercise of or an attempt to exercise any rights or privileges on behalf of the company by the officer, agent, or employee of the company has the same force and effect that the exercise of or an attempt to exercise the right or privilege would have had if the company's articles or registration had not been canceled, if both of the following apply:

(a) The exercise of or an attempt to exercise the right or privilege was within the scope of the company's articles that existed prior to cancellation;

(b) The officer, agent, or employee had no knowledge that the company's articles or registration had been canceled.

(2) The company is liable exclusively for the exercise of or an attempt to exercise any rights or privileges on behalf of the company by an officer, agent, or employee of the company, if the conditions set forth in divisions (B)(1)(a) and (b) of this section are met.

(C) Upon reinstatement of a company's articles or registration in accordance with section 1706.09 of the Revised Code, the exercise of or an attempt to exercise any rights or privileges on behalf of the company by an officer, agent, or employee of the company, after cancellation and prior to reinstatement of the articles or registration, does not constitute a violation of section 1706.09 of the Revised Code, if the conditions set forth in divisions (B)(1)(a) and (b) of this section are met.

(D) This section is remedial in nature and is to be construed liberally to accomplish the purpose of providing full reinstatement of a limited liability company's articles of organization or a foreign limited liability company's registration, in accordance with this section, to the time of the cancellation of the articles or registration.

Sec. 1706.461. (A)(1) A limited liability company or foreign limited liability company may

appeal a cancellation under division (L) of section 1706.09 of the Revised Code within thirty days after the effective date of the cancellation. The appeal shall be made to one of the following:

(a) The court of common pleas of the county in which the street address of the limited liability company or foreign limited liability company's principal office is located;

(b) If the limited liability company or foreign limited liability company has no principal office in this state, to the court of common pleas of the county in which the street address of its statutory agent is located;

(c) If the limited liability company or foreign limited liability company has no statutory agent, to the Franklin county court of common pleas.

(2) The limited liability company or foreign limited liability company shall commence its appeal by petitioning the appropriate court to set aside the cancellation or to determine that the limited liability company or foreign limited liability company has cured the grounds for cancellation and attaching to the petition copies of those records of the secretary of state as may be relevant.

(B) The appropriate court may take, or may summarily order the secretary of state to take, whatever action the court considers appropriate.

(C) The appropriate court's order or decision may be appealed as in any other civil proceeding.

Sec. 1706.47. A limited liability company is dissolved, and its activities shall be wound up, upon the occurrence of any of the following:

(A) An event or circumstance that the operating agreement states causes dissolution;

(B) The consent of all the members;

(C) A limited liability company with canceled articles has failed to cure the grounds for cancellation for three years or more and any member or person authorized pursuant to section 1706.18 of the Revised Code consents to the dissolution;

(D) The passage of ninety consecutive days after the occurrence of the dissociation of the last remaining member; provided that upon dissociation of the last remaining member pursuant to division (E) of section 1706.411 of the Revised Code, the limited liability company shall not be dissolved if either of the following applies:

(1) The operating agreement provides for the admission of a substitute member effective prior to the passage of such time period;

(2) A substitute member has been admitted, as evidenced by a written record, prior to the passage of such time period, which admission is to be effective as of the date of such dissociation.

(E) On application by a member, the entry by the appropriate court of an order dissolving the limited liability company on the grounds that it is not reasonably practicable to carry on the limited liability company's activities in conformity with the operating agreement.

Sec. 1706.471. (A) A dissolved limited liability company continues its existence as a limited liability company but may not carry on any activities except as is appropriate to wind up and liquidate its activities and affairs. Appropriate activities include all of the following:

(1) Collecting its assets;

(2) Disposing of its properties that will not be distributed in kind to persons owning membership interests;

(3) Discharging or making provisions for discharging its liabilities;

(4) Distributing its remaining property in accordance with section 1706.475 of the Revised Code;

(5) Doing every other act necessary to wind up and liquidate its activities and affairs.

(B) In winding up its activities, a limited liability company may do any of the following:

(1) Deliver to the secretary of state for filing, on a form prescribed by the secretary of state, a certificate of dissolution setting forth all of the following:

(a) The name and registration number of the limited liability company;

(b) That the limited liability company has dissolved;

(c) The effective date of the certificate of dissolution if it is not to be effective upon the filing.

Such an effective date shall be a date certain and shall not be a date prior to the date of filing.

(d) A copy of the notice it will publish pursuant to division (A) of section 1706.474 of the Revised Code.

(e) Any other information the limited liability company considers proper.

(2) Preserve the limited liability company's activities and property as a going concern for a reasonable time;

(3) Prosecute, defend, or settle actions or proceedings whether civil, criminal, or administrative;

(4) Make an assignment of the limited liability company's property;

(5) Resolve disputes by mediation or arbitration;

(6) Merge or convert in accordance with sections 1706.71 to 1706.74 of the Revised Code.

(C) A limited liability company's dissolution, in itself:

(1) Is not an assignment of the limited liability company's property;

(2) Does not prevent the commencement of a proceeding by or against the limited liability company in its limited liability company name;

(3) Does not abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution;

(4) Does not terminate the authority of its statutory agent;

(5) Does not abate, suspend, or otherwise alter the application of section 1706.26 of the Revised Code.

Sec. 1706.472. (A) Subject to division (C)(5) of section 1706.471 of the Revised Code, after dissolution, the remaining members, if any, and if none, a person appointed by all holders of the membership interest last assigned by the last person to have been a member, may wind up the limited liability company's activities.

(B) The appropriate tribunal may order supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities as follows:

(1) On application of a member, if the applicant establishes good cause;

(2) On application of an assignee, if both of the following apply:

(a) The limited liability company does not have any members;

(b) Within a reasonable time following the dissolution, a person has not been appointed pursuant to division (A) of this section.

(3) In connection with a proceeding under division (E) of section 1706.47 of the Revised

Code.

Sec. 1706.473. (A) A dissolved limited liability company may dispose of any known claims against it by following the procedures described in division (B) of this section at any time after the effective date of the dissolution of the limited liability company.

(B) A dissolved limited liability company may give notice of its dissolution in a record to the holder of any known claim. The notice shall do all of the following:

(1) Identify the dissolved limited liability company;

(2) Describe the information required to be included in a claim;

(3) Provide a mailing address to which the claim is to be sent;

(4) State the deadline, by which the dissolved limited liability company must receive the claim. The deadline shall not be sooner than ninety days from the effective date of the notice.

(5) State that if not sooner barred, the claim will be barred if not received by the deadline.

(C) Unless sooner barred by any other statute limiting actions, a claim against a dissolved limited liability company is barred in either of the following circumstances:

(1) A claimant who was given notice under division (B) of this section does not deliver the claim to the dissolved limited liability company by the deadline.

(2) A claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejected notice.

(D) For purposes of this section, "claim" includes an unliquidated claim, but does not include either of the following:

(1) A contingent liability that has not matured so that there is no immediate right to bring suit;

(2) A claim based on an event occurring after the effective date of dissolution.

(E) Nothing in this section shall be construed to extend any otherwise applicable statute or period of limitations.

Sec. 1706.474. (A) A dissolved limited liability company may publish notice of its dissolution and request that persons with claims against the dissolved limited liability company present them in accordance with the notice.

(B) The notice described in division (A) of this section shall meet all of the following requirements:

(1) It shall be posted prominently on the principal web site then maintained by the limited liability company, if any, and provided to the secretary of state to be posted on the web site maintained by the secretary of state in accordance with division (J) of this section. The notice shall be considered published when posted on both web sites or, if the limited liability company does not then maintain a web site, when posted on the web site maintained by the secretary of state.

(2) It shall describe the information that must be included in a claim and provide a mailing address to which the claim must be sent.

(3) It shall state that if not sooner barred, a claim against the dissolved limited liability company will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

(C) If a dissolved limited liability company publishes a notice in accordance with division (B) of this section, unless sooner barred by any other statute limiting actions, the claim of each of the

following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within two years after the publication of the notice:

(1) A claimant who was not given notice under division (B) of section 1706.473 of the Revised Code;

(2) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on by the dissolved limited liability company;

(3) A claimant whose claim is contingent at the effective date of the dissolution of the limited liability company, or is based on an event occurring after the effective date of the dissolution of the limited liability company.

(D) A claim that is not barred under this section, any other statute limiting actions, or section 1706.473 of the Revised Code may be enforced as follows:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets;

(2) Except as provided in division (H) of this section, if the assets of a dissolved limited liability company have been distributed after dissolution, against a member or assignee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or assignee after dissolution, whichever is less. A person's total liability for all claims under division (D) of this section may not exceed the total amount of assets distributed to the person after dissolution of the limited liability company.

(E) A dissolved limited liability company that published a notice under this section may file an application with the appropriate court in the county in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the county in which the dissolved limited liability company's statutory agent is or was last located, for a determination of the amount and form of security to be provided for payment of the following claims:

(1) Claims that are contingent;

(2) Claims that have not been made known to the dissolved limited liability company;

(3) Claims that are based on an event occurring after the effective date of the dissolution of the limited liability company but that, based on the facts known to the dissolved limited liability company, are reasonably estimated to arise after the effective date of the dissolution of the limited liability company.

Provision need not be made for any claim that is or is reasonably anticipated to be barred under division (C) of this section.

(F) Within ten days after the filing of the application provided for in division (E) of this section, notice of the proceeding shall be given by the dissolved limited liability company to each potential claimant as described in division (E) of this section.

(G) The appropriate court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the dissolved limited liability company.

(H) Provision by the dissolved limited liability company for security in the amount and the form ordered by the appropriate court under division (E) of this section shall satisfy the dissolved limited liability company's obligation with respect to claims that are contingent, have not been made known to the dissolved limited liability company, or are based on an event occurring after the

effective date of the dissolution of the limited liability company. Such claims shall not be enforced against a person owning a membership interest to whom assets have been distributed by the dissolved limited liability company after the effective date of the dissolution of the limited liability company.

(I) Nothing in this section shall be construed to extend any otherwise applicable statute of limitations.

(J)(1) Except as provided in division (J)(2) of this section, the secretary of state shall make both of the following available to the public in a format that is searchable, viewable, and accessible through the internet:

(a) A list of all limited liability companies that have filed certificates of dissolution;

(b) For each dissolved limited liability company on the list described in division (J)(1)(a) of this section, a copy of both the certificate of dissolution and the notice delivered under division (B) of this section.

(2) After the materials relating to any dissolved limited liability company have been posted for five years, the secretary of state may remove from the web site the information that the secretary posted pursuant to division (J)(1) of this section that relates to that dissolved company.

Sec. 1706.475. (A) Upon the winding up of a limited liability company, payment or adequate provision for payment, shall be made to creditors, including members who are creditors, in satisfaction of liabilities of the limited liability company.

(B) After a limited liability company complies with division (A) of this section, any surplus shall be distributed as follows:

(1) First, to each person owning a membership interest that reflects contributions made on account of the membership interest and not previously returned, an amount equal to the value of the person's unreturned contributions;

(2) Then to each person owning a membership interest in the proportions in which the owners of membership interests share in distributions before dissolution.

(C) If the limited liability company does not have sufficient surplus to comply with division (B)(1) of this section, any surplus shall be distributed among the owners of membership interests in proportion to the value of their respective unreturned contributions.

Sec. 1706.51. (A) The law of the state or other jurisdiction under which a foreign limited liability company is formed governs all of the following:

(1) The organization and internal affairs of the foreign limited liability company;

(2) The liability of a member as a member for the debts, obligations, or other liabilities of the foreign limited liability company or a series thereof;

(3) The authority of the members and agents of a foreign limited liability company or a series thereof;

(4) The liability of the following for the obligations of another series or the foreign limited liability company:

(a) The assets of the foreign limited liability company;

(b) The assets of a series thereof.

(B) A foreign limited liability company's application for registration as a foreign limited liability company may not be denied by reason of any difference between the laws of the jurisdiction under which the limited liability company is formed and the laws of this state.

(C) A foreign limited liability company, including a foreign limited liability company that has filed a registration as a foreign limited liability company, may not engage in any activities in this state that a limited liability company is forbidden to engage in by the laws of this state.

(D) A foreign limited liability company that has filed a registration as a foreign limited liability company shall in this state:

(1) Have the same but no greater rights than a limited liability company;

(2) Have the same but no greater privileges than a limited liability company;

(3) Except as otherwise provided by this chapter, be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a limited liability company.

Sec. 1706.511. (A) In order for a foreign limited liability company or any one or more of its series to transact business in this state, the foreign limited liability company shall register with the secretary of state. Neither a foreign limited liability company nor any one or more of its series may transact business in this state until the registration has been approved by the secretary of state and the foreign limited liability company or series is otherwise in compliance with sections 1706.51 to 1706.515 of the Revised Code.

(B) The registration as a foreign limited liability company shall state all of the following:

(1) The name of the foreign limited liability company and, if the name does not comply with section 1706.07 of the Revised Code, the assumed name adopted pursuant to division (A) of section 1706.513 of the Revised Code;

(2) The foreign limited liability company's jurisdiction of formation;

(3) The name and street address of the foreign limited liability company's statutory agent and a written acceptance of the appointment that is signed by the agent;

(4) That the foreign limited liability company is a foreign limited liability company;

(5) The information required by division (C) of this section, if applicable.

(C) If a foreign limited liability company establishes or provides for the establishment of one or more series of assets, it shall state all of the following in the registration as a foreign limited liability company:

(1) The fact that it provides for the establishment of one or more series of assets;

(2) Whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, shall be enforceable against the assets of that series only, and not against the assets of the foreign limited liability company generally or any other series thereof;

(3) Whether any of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the foreign limited liability company generally or any other series thereof shall be enforceable against the assets of that series.

(D) Upon any change in circumstances that makes any statement contained in its filed registration as a foreign limited liability company no longer true, a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing an appropriate certificate of correction, on a form as prescribed by the secretary of state, so that its statement of foreign qualification is in all respects true.

(E) A foreign limited liability company is authorized to transact business in this state from the effective date of its registration as a foreign limited liability company until the earlier of the effective

date of its cancellation of foreign limited liability company or the effective date of the secretary of state's cancellation of the registration as a foreign limited liability company in accordance with section 1706.09 of the Revised Code.

Sec. 1706.512. (A) A foreign limited liability company shall not be considered to be transacting business in this state within the meaning of sections 1706.51 to 1706.515 of the Revised Code by reason of its or any one or more of its series' carrying on in this state any of the following actions:

- (1) Maintaining, defending, or settling in its own behalf any proceeding or dispute;
- (2) Holding meetings or carrying on any other activities concerning its internal affairs;
- (3) Maintaining accounts in financial institutions;
- (4) Maintaining offices or agencies for the assignment, exchange, and registration of the foreign limited liability company's or its series' own securities or interests or maintaining trustees or depositories with respect to those securities or interests;
- (5) Selling through independent contractors;
- (6) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
- (7) Creating, as borrower or lender, or acquiring indebtedness, mortgages, or security interests in real or personal property;
- (8) Securing or collecting debts in its own behalf or enforcing mortgages or other security interests in real or personal property securing those debts, and holding, protecting, and maintaining property so acquired;
- (9) Owning real or personal property;
- (10) Conducting an isolated transaction that is not one in the course of repeated transactions of a like nature;

(11) Transacting business in interstate commerce.

(B) A foreign limited liability company shall not be considered to be transacting business in this state solely because it or any one or more of its series:

- (1) Owns a controlling interest in an entity that is transacting business in this state;
- (2) Is a limited partner of a limited partnership or foreign limited partnership that is transacting business in this state;
- (3) Is a member of a limited liability company or foreign limited liability company that is transacting business in this state.

(C) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company, or a series thereof, to service of process, taxation, or regulation under laws of this state other than this chapter.

(D) Nothing in this section shall limit or affect the right to subject a foreign limited liability company, or a series thereof, to the jurisdiction of the courts of this state or to serve upon any foreign limited liability company, or series thereof, any process, notice, or demand required or permitted by law to be served upon a foreign limited liability company, or series thereof, pursuant to any other provision of law or pursuant to the applicable rules of civil procedure.

Sec. 1706.513. (A) A foreign limited liability company whose name does not comply with

section 1706.07 of the Revised Code may not file a registration as a foreign limited liability company until it adopts, for the purpose of transacting business in this state, an assumed name that complies with section 1706.07 of the Revised Code. A foreign limited liability company that adopts an assumed name under this division and then files a registration as a foreign limited liability company under that assumed name need not file a name registration when transacting business under that assumed name. After filing the registration as a foreign limited liability company under an assumed name, a foreign limited liability company shall transact business in this state under the assumed name unless the foreign limited liability company has filed a name registration under another name and is authorized to transact business in this state under such name.

(B) If a foreign limited liability company to which a registration as a foreign limited liability company has been filed changes its name to one that does not comply with section 1706.07 of the Revised Code, it may not thereafter transact business in this state until it complies with division (A) of this section by filing a certificate of correction.

Sec. 1706.514. (A) A foreign limited liability company that has a registration as a foreign limited liability company in the records of the secretary of state may cancel its registration as a limited liability company by delivering for filing a certificate of cancellation of registration of a foreign limited liability company to the secretary of state.

(B) A certificate of cancellation of registration of a foreign limited liability company shall set forth all of the following:

(1) The name and registration number of the foreign limited liability company, any assumed name adopted for use in this state, and the name of the jurisdiction under whose law it is organized;

(2) The name and street address of the statutory agent, or if a statutory agent is no longer to be maintained, a statement that the foreign limited liability company will not maintain a statutory agent, and the street address to which service of process may be mailed pursuant to section 1706.09 of the Revised Code;

(3) That the foreign limited liability company, and all series thereof, will no longer transact business in this state and that it relinquishes its authority to transact business in this state;

(4) That the foreign limited liability company is canceling its registration as a foreign limited liability company;

(5) That any statement of assumed name it has on file in the records of the secretary of state and any assumed name with respect to the foreign limited liability company, are withdrawn upon the effective date of the cancellation of registration of a foreign limited liability company.

(C) The cancellation of registration of a foreign limited liability company shall be effective upon filing by the secretary of state, whereupon the registration as a foreign limited liability company shall be canceled and the foreign limited liability company, and all series thereof, shall be without authority to transact business in this state.

(D) Cancellation of a registration as a foreign limited liability company shall not terminate the authority of any statutory agent appointed by the foreign limited liability company.

Sec. 1706.515. (A) No foreign limited liability company, or a series thereof, transacting business in this state, nor anyone on its behalf, shall be permitted to maintain a proceeding in any court in this state for the collection of its debts unless an effective registration as a limited liability company for the foreign limited liability company is on file in the records of the secretary of state.

(B) A court may stay a proceeding commenced by a foreign limited liability company, or series thereof, until it determines whether the foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state. If the court determines that the foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state, the court may further stay the proceeding until there is an effective registration as a limited liability company on file in the records of the secretary of state with respect to the foreign limited liability company. If a court determines that a foreign limited liability company should have a registration as a limited liability company on file in the records of the secretary of state, and the foreign limited liability company subsequently delivers for filing to the secretary of state a registration as a limited liability company, no proceeding in any court in this state to which the foreign limited liability company, or a series thereof, is a party shall, after the effective date of the registration as a foreign limited liability company, be dismissed by reason of the foreign limited liability company's prior noncompliance with section 1706.511 of the Revised Code.

(C) If a foreign limited liability company, or a series thereof, conducts activities in this state without having on file in the records of the secretary of state a registration as a foreign limited liability company, the foreign limited liability company shall be liable to this state for an amount equal to the fee as prescribed by the secretary of state from time to time.

No registration as a foreign limited liability company shall be filed until payment of the amounts due under this division is made.

(D) The amounts due to this state under division (C) of this section may be recovered in an action brought by the attorney general. Upon a finding by the court that a foreign limited liability company, or series thereof, has conducted activities in this state in violation of sections 1706.51 to 1706.515 of the Revised Code, the court may issue, in addition to or in lieu of the imposition of a civil penalty, an injunction restraining the further conducting of activities by the foreign limited liability company and all of its series, and the further exercise of any rights and privileges of a foreign limited liability company in this state until all amounts plus any interest and court costs that the court may assess have been paid, and until the foreign limited liability company has otherwise complied with sections 1706.51 to 1706.515 of the Revised Code.

(E) Notwithstanding divisions (A) and (B) of this section, the conducting of activities in this state by a foreign limited liability company, or a series thereof, without having a registration as a foreign limited liability company on file in the records of the secretary of state does not impair the validity of the acts of the foreign limited liability company, or a series thereof, or prevent the foreign limited liability company, or a series thereof, from defending any proceeding in this state.

(F) Neither a member nor agent of a foreign limited liability company nor a member associated with a series or agent of a series, is liable for the debts, obligations, or other liabilities of the foreign limited liability company, or a series thereof, solely because the foreign limited liability company, or a series thereof, conducted activities in this state without a registration as a foreign limited liability company being on file in the records of the secretary of state.

Sec. 1706.61. (A) A member may commence or maintain a derivative action in the right of a limited liability company to recover a judgment in favor of the limited liability company by complying with sections 1706.61 to 1706.617 of the Revised Code.

(B) A member associated with a series of a limited liability company may commence or maintain a derivative action in the right of the series to recover a judgment in favor of the series by complying with sections 1706.61 to 1706.617 of the Revised Code.

Sec. 1706.611. (A) A member may commence or maintain a derivative action in the right of the limited liability company only if the member meets both of the following conditions:

(1) The member fairly and adequately represents the interests of the limited liability company in enforcing the right of the limited liability company.

(2) The member either:

(a) Was a member of the limited liability company at the time of the act or omission of which the member complains;

(b) Acquired a membership interest through assignment by operation of law from a person who was a member at the time of the act or omission of which the member complains.

(B) A member associated with a series of a limited liability company may commence or maintain a derivative action in the right of the series only if the member meets both of the following conditions:

(1) The member fairly and adequately represents the interests of the series in enforcing the right of the series.

(2) The member either:

(a) Was associated with the series at the time of the act or omission of which the member complains;

(b) Acquired a membership interest through assignment by operation of law from a person who was a member associated with the series at the time of the act or omission of which the member complains.

Sec. 1706.612. A member may not commence a derivative action in the right of the limited liability company, or a series thereof, until both of the following occur:

(A) A written demand has been made upon the limited liability company or the series to take suitable action.

(B) Ninety days have expired from the date the demand was made unless either of the following applies:

(1) The member has earlier been notified that the demand has been rejected by the limited liability company or the series;

(2) Irreparable injury to the limited liability company or the series would result by waiting for the expiration of the ninety-day period.

Sec. 1706.613. For the purpose of allowing the limited liability company or the series thereof time to undertake an inquiry into the allegations made in the demand or complaint commenced pursuant to sections 1706.61 to 1706.617 of the Revised Code, the court may stay any derivative action for the period the court deems appropriate.

Sec. 1706.614. (A)(1) A derivative action in the right of a limited liability company shall be dismissed by the court on motion by the limited liability company if one of the groups specified in division (A)(2) of this section has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative action is not in the best interests of the limited liability company.

(2) Subject to the requirements of division (A)(3) of this section, the determination of whether the maintenance of a derivative action in the right of a limited liability company is in the best interests of the limited liability company shall be made by a majority vote of either of the following:

(a) The independent members of the limited liability company;

(b) The committee members of a committee consisting of independent members appointed by a majority of the independent members.

(3) If the determination is not made pursuant to division (A)(1) of this section, the determination shall be made by the person, or, in the case of more than one person, by a majority of the persons, sitting upon a panel of one or more persons appointed by a court upon motion filed with the court by the limited liability company for those purposes.

(B)(1) A derivative action in the right of a series of a limited liability company shall be dismissed on motion by the series if one of the groups specified in division (B)(2) of this section has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative action is not in the best interests of the series.

(2) Subject to the requirements of division (B)(3) of this section, the determination whether the maintenance of a derivative action on behalf of a series of a limited liability company is in the best interests of the series shall be made by a majority vote of either of the following:

(a) The independent members associated with the series;

(b) The committee members of a committee consisting of independent members associated with the series appointed by a majority of the independent members associated with the series.

(3) If the determination is not made pursuant to division (B)(1) of this section, the determination shall be made by the person, or, in the case of more than one person, by a majority of the persons, sitting upon a panel of one or more persons appointed by a court upon motion filed with the court by the series for those purposes.

(C) The court shall appoint only independent persons to the panel described in divisions (A)(3) and (B)(3) of this section.

(D) The presence of one or more of the following circumstances, without more, shall not prevent a person from being considered independent for purposes of this section:

(1) The naming of the person as a defendant in the derivative action or as a person against whom action is demanded;

(2) The approval by that person of the act being challenged in the derivative action or demand where the act did not result in personal benefit to that person;

(3) The making of the demand pursuant to section 1706.612 of the Revised Code or the commencement of the derivative action pursuant to sections 1706.61 to 1706.617 of the Revised Code.

(E) Subject to section 1706.615 of the Revised Code, a panel appointed by the court pursuant to division (A)(3) or (B)(3) of this section shall have the authority to continue, settle, or discontinue the derivative proceeding as the court may confer upon the panel.

(F) The plaintiff in the derivative action shall have the burden of proving that any of the requirements of division (A) or (B) of this section have not been met.

Sec. 1706.615. A derivative action may not be discontinued or settled without the court's

approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of members of the limited liability company, or the interests of members associated with a series of the limited liability company, the court shall direct that notice be given to the members affected.

Sec. 1706.616. On termination of the derivative action the court may do any of the following:

(A) Order the limited liability company to pay the plaintiff's reasonable expenses, including attorney fees, incurred by the plaintiff in the derivative action if the court finds that the derivative action has resulted in a substantial benefit to the limited liability company;

(B) Order a series to pay the plaintiff's reasonable expenses, including attorney fees, incurred by the plaintiff in the derivative action if the court finds that the derivative action has resulted in a substantial benefit to the series;

(C) Order the plaintiff to pay any defendant's reasonable expenses, including attorney fees, incurred by the defendant in defending the derivative action if it finds that the derivative action was commenced or maintained without reasonable cause or for an improper purpose;

(D) Order a party to pay an opposing party's expenses incurred because of the filing of a pleading, motion, or other paper, if it finds both of the following:

(1) That the pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(2) That the pleading, motion, or other paper was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

Sec. 1706.617. In any derivative action in the right of a foreign limited liability company, or a series thereof, the right of a person to commence or maintain a derivative action in the right of a foreign limited liability company, or a series thereof, and any matters raised in the action covered by sections 1706.61 to 1706.616 of the Revised Code shall be governed by the law of the jurisdiction under which the foreign limited liability company was formed; except that any matters raised in the action covered by sections 1706.613, 1706.615, and 1706.616 of the Revised Code shall be governed by the law of this state.

Sec. 1706.62. (A) Subject to division (B) of this section, a member may maintain a direct action against another member or members or the limited liability company, or a series thereof, to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(B) A member maintaining a direct action under division (A) of this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company, or series thereof.

(C)(1) A member may maintain a direct action to enforce a right of a limited liability company if all members at the time of suit are parties to the action.

(2) A member associated with a series may maintain a direct action to enforce a right of the series if all members associated with the series at the time of suit are parties to the action.

Sec. 1706.71. (A) A limited liability company may merge with one or more other constituent entities pursuant to sections 1706.71 to 1706.713 of the Revised Code and to an agreement of merger

if all of the following conditions are met:

(1) The governing statute of each of the other entities authorizes the merger.

(2) The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes.

(3) Each of the other entities complies with its governing statute in effecting the merger.

(B) An agreement of merger shall be in a record and shall include all of the following:

(1) The name and form of each constituent entity;

(2) The name and form of the surviving entity and, if the surviving entity is to be created pursuant to the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent entity into any combination of money, interests in the surviving entity, and other consideration as permitted under division (C) of this section;

(4) If the surviving entity is to be created pursuant to the merger, the surviving entity's organizational documents that are proposed to be in a record;

(5) If the surviving entity is not to be created pursuant to the merger, any amendments to be made by the merger to the surviving entity's organizational documents that are, or are proposed to be, in a record.

(C) In connection with a merger, rights or securities of or interests in the constituent entity may be any of the following:

(1) Exchanged for or converted into cash, property, or rights or securities of or interests in the surviving entity;

(2) In addition to or in lieu of division (C)(1) of this section, exchanged for or converted into cash, property, or rights or securities of or interests in another entity;

(3) Canceled.

Sec. 1706.711. (A) To be effective, an agreement of merger shall be consented to by all the members of a constituent limited liability company.

(B) After the agreement of merger is approved, and at any time before a certificate of merger is delivered to the secretary of state for filing under section 1706.712 of the Revised Code, a constituent limited liability company may amend the agreement or abandon the merger:

(1) As provided in the agreement; or

(2) Except as otherwise prohibited in the agreement, with the same consent as was required to approve the agreement.

Sec. 1706.712. (A) After each constituent entity has approved the agreement of merger, a certificate of merger shall be signed on behalf of both of the following:

(1) Each constituent limited liability company, as provided in division (A) of section 1706.17 of the Revised Code;

(2) Each other constituent entity, as provided in its governing statute.

(B) A certificate of merger under this section shall include all of the following:

(1) The name and form of each constituent entity, the jurisdiction of its governing statute, and its registration number, if any, as it appears on the records of the secretary of state;

(2) The name and form of the surviving entity, the jurisdiction of its governing statute, and, if the surviving entity is created pursuant to the merger, a statement to that effect;

- (3) The date the merger is effective under the governing statute of the surviving entity;
- (4) If the surviving entity is to be created pursuant to the merger:
- (a) If it will be a limited liability company, the limited liability company's articles of organization;
- (b) If it will be an entity other than a limited liability company, any organizational document that creates the entity that is required to be in a public record.
- (5) If the surviving entity exists before the merger, any amendments provided for in the agreement of merger for the organizational document that created the entity that are in a public record;
- (6) A statement as to each constituent entity that the merger was approved as required by the entity's governing statute;
- (7) If the surviving entity is a foreign entity not authorized to transact business in this state, the street address of its statutory agent;
- (8) Any additional information required by the governing statute of any constituent entity.
- (C) Each constituent limited liability company shall deliver the certificate of merger for filing in the office of the secretary of state.
- (D) A merger becomes effective under sections 1706.71 to 1706.74 of the Revised Code as follows:
- (1) If the surviving entity is a limited liability company, upon the later of the following:
- (a) Compliance with division (C) of this section;
- (b) As specified in the certificate of merger.
- (2) If the surviving entity is not a limited liability company, as provided by the governing statute of the surviving entity.
- Sec. 1706.713. (A) When a merger becomes effective, all of the following apply:
- (1) The surviving entity continues or comes into existence.
- (2) Each constituent entity that merges into the surviving entity ceases to exist as a separate entity.
- (3) All property owned by each constituent entity, or series thereof, that ceases to exist vests in the surviving entity without reservation or impairment.
- (4) All debts, obligations, or other liabilities of each constituent entity, or series thereof, that ceases to exist continue as debts, obligations, or other liabilities of the surviving entity.
- (5) An action or proceeding pending by or against any constituent entity, or series thereof, that ceases to exist continues as if the merger had not occurred.
- (6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent entity, or series thereof, that ceases to exist vest in the surviving entity.
- (7) Except as otherwise provided in the agreement of merger, the terms and conditions of the agreement of merger take effect.
- (8) Except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of sections 1706.47 to 1706.475 of the Revised Code and does not dissolve a series for purposes of sections 1706.76 to 1706.7613 of the Revised Code.
- (9) If the surviving entity is created pursuant to the merger:

(a) If it is a limited liability company, the articles of organization become effective;

(b) If it is an entity other than a limited liability company, the organizational document that creates the entity becomes effective.

(10) If the surviving entity existed before the merger, any amendments provided for in the certificate of merger for the organizational document that created the entity become effective.

(B) A surviving entity that is a foreign entity consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent entity, if before the merger the constituent entity was subject to suit in this state on the debt, obligation, or other liability. Service of process on a surviving entity that is a foreign entity and not authorized to transact business in this state for the purposes of enforcing a debt, obligation, or other liability may be made in the same manner and has the same consequences as provided in section 1706.09 of the Revised Code as if the surviving entity was a foreign limited liability company.

Sec. 1706.72. (A) An entity other than a limited liability company may convert to a limited liability company, and a limited liability company may convert to an entity other than a limited liability company pursuant to sections 1706.72 to 1706.723 of the Revised Code and a written declaration of conversion if all of the following apply:

(1) The governing statute of the entity that is not a limited liability company authorizes the conversion;

(2) The law of the jurisdiction governing the converting entity and the converted entity does not prohibit the conversion;

(3) The converting entity and the converted entity comply with their respective governing statutes and organizational documents in effecting the conversion.

(B) A written declaration of conversion shall be in a record and include all of the following:

(1) The name and form of the converting entity before conversion;

(2) The name and form of the converted entity after conversion;

(3) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting entity into any combination of money, interests in the converted entity, and other consideration allowed under division (C) of this section.

(4) The organizational documents of the converted entity that are, or are proposed to be, in a record.

(C) In connection with a conversion, rights or securities of or interests in the converting entity may be any of the following:

(1) Exchanged for or converted into cash, property, or rights or securities of or interests in the converted entity;

(2) In addition to or in lieu of division (C)(1) of this section, exchanged for or converted into cash, property, or rights or securities of or interests in another entity;

(3) Canceled.

Sec. 1706.721. (A) A declaration of conversion must be consented to by all the members of a converting limited liability company.

(B) After a conversion is approved, and at any time before the certificate of conversion is delivered to the secretary of state for filing under section 1706.722 of the Revised Code, a converting limited liability company may amend the declaration or abandon the conversion:

(1) As provided in the declaration; or
(2) Except as otherwise prohibited in the declaration, by the same consent as was required to approve the declaration.

Sec. 1706.722. (A) After a declaration of conversion is approved, both of the following apply:

(1) A converting limited liability company shall deliver to the secretary of state for filing a certificate of conversion. The certificate of conversion shall be signed as provided in division (A) of section 1706.17 of the Revised Code and shall include all of the following:

(a) A statement that the converting limited liability company has been converted into the converted entity;

(b) The name and form of the converted entity and the jurisdiction of its governing statute;

(c) The date the conversion is effective under the governing statute of the converted entity;

(d) A statement that the conversion was approved as required by this chapter;

(e) A statement that the conversion was approved as required by the governing statute of the converted entity;

(f) If the converted entity is a foreign entity not authorized to transact business in this state, the street address of its statutory agent for the purposes of division (B) of section 1706.723 of the Revised Code.

(2) If the converted entity is a limited liability company, the converting entity shall deliver to the secretary of state for filing articles of organization which shall include, in addition to the information required by division (A) of section 1706.16 of the Revised Code, all of the following:

(a) A statement that the converted entity was converted from the converting entity;

(b) The name and form of the converting entity and the jurisdiction of the converting entity's governing statute;

(c) A statement that the conversion was approved as required by the governing statute of the converting entity.

(B) A conversion shall become effective as follows:

(1) If the converted entity is a limited liability company, when the articles of organization take effect;

(2) If the converted entity is not a limited liability company, as provided by the governing statute of the converted entity.

Sec. 1706.723. (A) When a conversion takes effect, all of the following apply:

(1) All property owned by the converting entity, or series thereof, remains vested in the converted entity.

(2) All debts, obligations, or other liabilities of the converting entity, or series thereof, continue as debts, obligations, or other liabilities of the converted entity.

(3) An action or proceeding pending by or against the converting entity, or series thereof, continues as if the conversion had not occurred.

(4) Except as prohibited by law other than this chapter, all of the rights, privileges, immunities, powers, and purposes of the converting entity, or series thereof, remain vested in the converted entity.

(5) Except as otherwise provided in the plan of conversion, the terms and conditions of the

declaration of conversion take effect.

(6) Except as otherwise agreed, for all purposes of the laws of this state, the converting entity, and any series thereof, shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of the converting entity, or series thereof.

(7) For all purposes of the laws of this state, the rights, privileges, powers, and interests in property of the converting entity, and all series thereof, as well as the debts, liabilities, and duties of the converting entity, and all series thereof, shall not be deemed to have been assigned to the converted entity as a consequence of the conversion.

(8) If the converted entity is a limited liability company, for all purposes of the laws of this state, the limited liability company shall be deemed to be the same entity as the converting entity, and the conversion shall constitute a continuation of the existence of the converting entity in the form of a limited liability company.

(9) If the converted entity is a limited liability company, the existence of the limited liability company shall be deemed to have commenced on the date the converting entity commenced its existence in the jurisdiction in which the converting entity was first created, formed, organized, incorporated, or otherwise came into being.

(B) A converted entity that is a foreign entity consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability for which the converting limited liability company, or series thereof, is liable if, before the conversion, the converting limited liability company, or series thereof, was subject to suit in this state on the debt, obligation, or other liability. Service of process on a converted entity that is a foreign entity and not authorized to transact business in this state for purposes of enforcing a debt, obligation, or other liability under this division may be made in the same manner and has the same consequences as provided in section 1706.09 of the Revised Code, as if the converted entity were a foreign limited liability company.

Sec. 1706.73. (A) If a member of a constituent or converting limited liability company will have personal liability with respect to a surviving or converted entity, approval or amendment of a plan of merger or a declaration of conversion are ineffective without the consent of the member, unless both of the following conditions are met:

(1) The limited liability company's operating agreement provides for approval of a merger or conversion with the consent of fewer than all the members.

(2) The member has consented to the provision of the operating agreement described in division (A)(1) of this section.

(B) A member does not give the consent required by division (A) of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

Sec. 1706.74. Sections 1706.71 to 1706.74 of the Revised Code do not preclude an entity from being merged or converted under law other than this chapter.

Sec. 1706.76. (A) An operating agreement may establish or provide for the establishment of one or more designated series of assets that has both of the following:

(1) Either or both of the following:

(a) Separate rights, powers, or duties with respect to specified property or obligations of the

limited liability company or profits and losses associated with specified property or obligations:

(b) A separate purpose or investment objective.

(2) At least one member associated with each series.

(B) A series established in accordance with division (A) of this section may carry on any activity, whether or not for profit.

Sec. 1706.761. (A) Subject to division (B) of this section, both of the following apply:

(1) The debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a series shall be enforceable against the assets of that series only, and shall not be enforceable against the assets of the limited liability company generally or any other series thereof.

(2) None of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of a series.

(B) Division (A) of this section applies only if all of the following conditions are met:

(1) The records maintained for that series account for the assets of that series separately from the other assets of the company or any other series.

(2) The operating agreement contains a statement to the effect of the limitations provided in division (A) of this section.

(3) The limited liability company's articles of organization contains a statement that the limited liability company may have one or more series of assets subject to the limitations provided in division (A) of this section.

Sec. 1706.762. (A) Assets of a series may be held directly or indirectly, including in the name of the series, in the name of the limited liability company, through a nominee, or otherwise.

(B) If the records of a series are maintained in a manner so that the assets of the series can be reasonably identified by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any assets, or by any other method in which the identity of the assets can be objectively determined, the records are considered to satisfy the requirement of division (B)(1) of section 1706.761 of the Revised Code.

Sec. 1706.763. The statement of limitation on liabilities of a series required by division (B) (3) of section 1706.761 of the Revised Code is sufficient regardless of whether either of the following applies:

(A) The limited liability company has established any series under this chapter when the statement of limitations is contained in the articles of organization;

(B) The statement of limitations makes reference to a specific series of the limited liability company.

Sec. 1706.764. (A) A person shall not voluntarily dissociate as a member associated with a series.

(B) A person's dissociation from a series is wrongful only if one of the following applies:

(1) The person's dissociation is in breach of an express provision of the operating agreement.

(2) The person is expelled as a member associated with the series by determination of a tribunal under division (E) of section 1706.765 of the Revised Code.

(3) The person is dissociated as a member associated with a series by becoming a debtor in

bankruptcy or making a general assignment for the benefit of creditors.

(C) A person that wrongfully dissociates as a member associated with a series is liable to the series and, subject to section 1706.61 of the Revised Code, to the other members associated with that series for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or liability of the member associated with a series to the series or the other members associated with that series.

Sec. 1706.765. A person is dissociated as a member associated with a series when any of the following occurs:

(A) An event stated in the operating agreement as causing the person's dissociation from the series occurs.

(B) The person is dissociated as a member of the limited liability company pursuant to section 1706.411 of the Revised Code.

(C) The person is expelled as a member associated with that series pursuant to the operating agreement.

(D) The person is expelled as a member associated with the series by the unanimous consent of the other members associated with that series and if any of the following applies:

(1) It is unlawful to carry on the series' activities with the person as a member associated with that series.

(2) The person is an entity and, within ninety days after the series notifies the person that it will be expelled as a member associated with that series because the person has filed a certificate of dissolution or the equivalent, or its right to transact business has been suspended by its jurisdiction of formation, the certificate of dissolution or the equivalent has not been revoked or its right to transact business has not been reinstated.

(3) The person is an entity and, within ninety days after the series notifies the person that it will be expelled as a member associated with that series because the person has been dissolved and its activities are being wound up, the entity has not been reinstated or the dissolution and winding up have not been revoked or canceled.

(E) On application by the series, the person is expelled as a member associated with that series by tribunal order for any of the following reasons:

(1) The person has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, that series' activities.

(2) The person has willfully or persistently committed, or is willfully or persistently committing, a material breach of the operating agreement or the person's duties or obligations under this chapter or other applicable law.

(3) The person has engaged, or is engaging, in conduct relating to that series' activities that makes it not reasonably practicable to carry on the activities with the person as a member associated with that series.

(F) In the case of a person who is an individual, the person dies, a guardian or general conservator is appointed for the person, or a tribunal determines that the person has otherwise become incapable of performing the person's duties as a member associated with a series under this chapter or the operating agreement.

(G) The person becomes a debtor in bankruptcy, executes an assignment for the benefit of

creditors, or seeks, consents, or acquiesces to the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property. This division shall not apply to a person who is the sole remaining member associated with a series.

(H) In the case of a person that is a trust or is acting as a member associated with a series by virtue of being a trustee of a trust, the trust's entire membership interest associated with the series is distributed, but not solely by reason of the substitution of a successor trustee.

(I) In the case of a person that is an estate or is acting as a member associated with a series by virtue of being a personal representative of an estate, the estate's entire membership interest associated with the series is distributed, but not solely by reason of the substitution of a successor personal representative.

(J) In the case of a member associated with a series that is not an individual, the legal existence of the person otherwise terminates.

Sec. 1706.766. (A) A person who has dissociated as a member associated with a series shall have no right to participate in the activities and affairs of that series and is entitled only to receive the distributions to which that member would have been entitled if the member had not dissociated from that series.

(B) A person's dissociation as a member associated with a series does not of itself discharge the person from any debt, obligation, or liability to that series, the limited liability company, or the other members that the person incurred while a member associated with that series.

(C) A member's dissociation from a series does not, in itself, cause the member to dissociate from any other series or require the winding up of the series.

(D) A member's dissociation from a series does not, in itself, cause the member to dissociate from the limited liability company.

Sec. 1706.767. A series may be dissolved and its activities and affairs may be wound up without causing the dissolution of the limited liability company. The dissolution and winding up of a series does not abate, suspend, or otherwise affect the limitation on liabilities of the series provided by section 1706.761 of the Revised Code.

Sec. 1706.768. A series is dissolved and its activities and affairs shall be wound up upon the first to occur of the following:

(A) The dissolution of the limited liability company under section 1706.47 of the Revised Code;

(B) An event or circumstance that the operating agreement states causes dissolution of the series;

(C) The consent of all of the members associated with the series;

(D) The passage of ninety days after the occurrence of the dissociation of the last remaining member associated with the series;

(E) On application by a member associated with the series, the entry by the appropriate court of an order dissolving the series on the grounds that it is not reasonably practicable to carry on the series' activities in conformity with the operating agreement.

Sec. 1706.769. (A) A dissolved series continues its existence as a series but shall not carry on any activities except as is appropriate to wind up and liquidate its activities and affairs. Appropriate activities include all of the following:

- (1) Collecting the assets of the series;
- (2) Disposing of the properties of the series that will not be distributed in kind to persons owning membership interests associated with the series;
- (3) Discharging or making provisions for discharging the liabilities of the series;
- (4) Distributing the remaining property of the series in accordance with section 1706.7613 of the Revised Code;
- (5) Doing any other act necessary to wind up and liquidate the series' activities and affairs.
- (B) In winding up a series' activities, a series may do any of the following:
 - (1) Preserve the series' activities and property as a going concern for a reasonable time;
 - (2) Prosecute, defend, or settle actions or proceedings whether civil, criminal, or administrative;
 - (3) Make an assignment of the series' property;
 - (4) Resolve disputes by mediation or arbitration.
- (C) A series' dissolution, in itself:
 - (1) Is not an assignment of the series' property;
 - (2) Does not prevent the commencement of a proceeding by or against the series in the series' name;
 - (3) Does not abate or suspend a proceeding pending by or against the series on the effective date of dissolution;
 - (4) Does not abate, suspend, or otherwise alter the application of section 1706.7613 of the Revised Code.

Sec. 1706.7610. (A) Subject to division (C) of section 1706.769 of the Revised Code, after dissolution of a series, the remaining members associated with the series, if any, and if none, a person appointed by all holders of the membership interest last assigned by the last person to have been a member associated with the series, may wind up the series' activities.

(B) The appropriate tribunal may order supervision of the winding up of a dissolved series, including the appointment of a person to wind up the series' activities for any of the following reasons:

- (1) On application of a member associated with the series, if the applicant establishes good cause;
- (2) On application of an assignee associated with a series, if both of the following apply:
 - (a) There are no members associated with the series.
 - (b) Within a reasonable time following the dissolution a person has not been appointed pursuant to division (A) of this section.
- (3) In connection with a proceeding under division (E) of section 1706.768 of the Revised Code.

Sec. 1706.7611. (A) A dissolved series may dispose of any known claims against it by following the procedures described in division (B) of this section, at any time after the effective date of the dissolution of the series.

(B) A dissolved series may give notice of the dissolution in a record to the holder of any known claim. The notice shall do all of the following:

- (1) Identify the limited liability company and the dissolved series;

(2) Describe the information required to be included in a claim;

(3) Provide a mailing address to which the claim is to be sent;

(4) State the deadline by which the dissolved series must receive the claim. The deadline shall not be sooner than one hundred twenty days from the effective date of the notice.

(5) State that if not sooner barred, the claim will be barred if not received by the deadline.

(C) Unless sooner barred by any other statute limiting actions, a claim against a dissolved series is barred in either of the following circumstances:

(1) If a claimant who was given notice under division (B) of this section does not deliver the claim to the dissolved series by the deadline;

(2) If a claimant whose claim was rejected by the dissolved series does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejected notice.

(D) For purposes of this section, "claim" includes an unliquidated claim, but does not include a contingent liability that has not matured so that there is no immediate right to bring suit or a claim based on an event occurring after the effective date of dissolution.

(E) Nothing in this section shall be construed to extend any otherwise applicable statute of limitations.

Sec. 1706.7612. (A) A dissolved series may publish notice of its dissolution and request that persons with claims against the dissolved series present them in accordance with the notice.

(B) The notice authorized by division (A) of this section shall meet all of the following criteria:

(1) It shall be posted prominently on the principal web site then maintained by the limited liability company, if any, and provided to the secretary of state to be posted on the web site maintained by the secretary of state in accordance with division (J) of section 1706.474 of the Revised Code. The notice shall be considered published when posted on the secretary of state's web site.

(2) It shall describe the information that must be included in a claim and provide a mailing address to which the claim must be sent.

(3) It shall state that if not sooner barred, a claim against the dissolved series will be barred unless a proceeding to enforce the claim is commenced within two years following the publication of the notice.

(C) If a dissolved series publishes a notice in accordance with division (B) of this section, unless sooner barred by any other statute limiting actions, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved series within two years after the publication date of the notice:

(1) A claimant who was not given notice under division (B) of section 1706.7611 of the Revised Code;

(2) A claimant whose claim was timely sent to the dissolved series but not acted on by the dissolved series;

(3) A claimant whose claim is contingent at the effective date of the dissolution of the series, or is based on an event occurring after the effective date of the dissolution of the series.

(D) A claim that is not barred under this section, any other statute limiting actions, or section 1706.7611 of the Revised Code may be enforced against either of the following:

(1) A dissolved series, to the extent of its undistributed assets associated with the series;

(2) A member or assignee associated with the series to the extent of that person's proportionate share of the claim or of the assets of the series distributed to the member or assignee after dissolution, whichever is less, except as provided in division (H) of this section and only if the assets of a dissolved series have been distributed after dissolution. A person's total liability for all claims under division (D) of this section shall not exceed the total amount of assets of the series distributed to the person after dissolution of the series.

(E) A dissolved series that published a notice under this section may file an application with the appropriate court in the county in which the limited liability company's principal office is located or, if it has none in this state, in the county in which the limited liability company's statutory agent is or was last located. The application shall be for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved series or that are based on an event occurring after the effective date of the dissolution of the series but that, based on the facts known to the dissolved series, are reasonably estimated to arise after the effective date of the dissolution of the series. Provision need not be made for any claim that is or is reasonably anticipated to be barred under division (C) of this section.

(F) Within ten days after the filing of the application provided for in division (E) of this section, notice of the proceeding shall be given by the dissolved series to each potential claimant as described in that division.

(G) The appropriate court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the dissolved series.

(H) Provision by the dissolved series for security in the amount and the form ordered by the appropriate court under division (E) of this section shall satisfy the dissolved series' obligation with respect to claims that are contingent, have not been made known to the dissolved series, or are based on an event occurring after the effective date of the dissolution of the series. Those claims may not be enforced against a person owning a membership interest to whom assets have been distributed by the dissolved series after the effective date of the dissolution of the series.

(I) Nothing in this section shall be construed to extend any otherwise applicable statute of limitations.

Sec. 1706.7613. (A) Upon the winding up of a series, payment or adequate provision for payment shall be made to creditors of the series, including, to the extent permitted by law, members who are associated with the series and who are also creditors of the series, in satisfaction of liabilities of the series.

(B) After a series complies with division (A) of this section, any surplus shall be distributed as follows:

(1) First, to each person owning a membership interest associated with the series that reflects contributions made on account of that membership interest and not previously returned, an amount equal to the value of the person's unreturned contributions;

(2) Then to each person owning a membership interest associated with the series in the proportions in which the owners of membership interests associated with the series share in

distributions prior to dissolution of the series.

(C) If the series does not have sufficient surplus to comply with division (B)(1) of this section, any surplus shall be distributed among the owners of membership interests associated with the series in proportion to the value of their respective unreturned contributions.

Sec. 1706.81. This chapter modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act," 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

Sec. 1706.82. A limited liability company formed and existing under this chapter may conduct its activities and affairs, carry on its operations, and have and exercise the powers granted by this chapter in any state, foreign country, or other jurisdiction.

Sec. 1706.83. On and after January 1, 2022, this chapter shall govern all limited liability companies, including every foreign limited liability company that files an application for registration as a foreign limited liability company on or after January 1, 2022, every foreign limited liability company that registers a name in this state on or after January 1, 2022, every foreign limited liability company that has registered a name in this state prior to January 1, 2022, and every foreign limited liability company that has filed an application for registration as a foreign limited liability company prior to January 1, 2022, pursuant to Chapter 1705. of the Revised Code.

Sec. 1706.84. Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited liability companies and members and agents whether or not existing as such at the time of the enactment of any such amendment.

Sec. 1729.36. (A) An association may merge or consolidate with one or more entities, if such merger or consolidation is permitted by the laws under which each constituent entity exists and the association complies with this section.

(B) Each constituent association shall comply with section 1729.35 of the Revised Code with respect to form and approval of an agreement of merger or consolidation, and each constituent entity shall comply with the applicable provisions of the laws under which it exists, except that the agreement of merger or consolidation, by whatever name designated, shall comply with divisions (C) and (D) of this section.

(C) The agreement of merger or consolidation shall set forth all of the following:

- (1) The names of the states and the laws under which each constituent entity exists;
- (2) All statements and matters required to be set forth in agreements of merger or consolidation by the laws under which any constituent entity exists;
- (3) A statement that the surviving or new entity is to be an association, a foreign association, a corporation other than a cooperative, or a limited liability company;
- (4) If the surviving or new entity is to be a foreign entity:
 - (a) The place where the principal office of the surviving or new entity is to be located in the state in which the surviving or new entity is to exist;
 - (b) The consent by the surviving or new entity that it may be sued and served with process in this state in any proceeding for the enforcement of any obligation of any constituent association or domestic entity;
 - (c) The consent by the surviving or new entity that it shall be subject to the applicable

provisions of Chapter 1703. of the Revised Code, if it is a foreign corporation or foreign association, or to sections 1705.53 to 1705.58 or 1706.51 to 1706.515 of the Revised Code, if it is a foreign limited liability company;

(d) If it is desired that the surviving or new entity exercise its corporate privileges in this state as a foreign entity.

(D) The agreement also may set forth other provisions permitted by the laws of any state in which any constituent entity exists.

(E) If the surviving or new entity is an association, the merger or consolidation shall take effect in accordance with sections 1729.37 and 1729.38 of the Revised Code.

(F) If the surviving or new entity is an entity other than an association, the merger or consolidation shall take effect in accordance with the applicable provisions of the laws under which it exists.

Sec. 1729.38. (A)(1) Upon adoption of an agreement of merger or consolidation under section 1729.35 or 1729.36 of the Revised Code, a certificate, signed by any authorized officer or representative of each constituent association or entity, shall be filed with the secretary of state on a form prescribed by the secretary of state that sets forth the following:

(a) The name and form of each constituent association or entity and the state law under which each constituent entity exists;

(b) A statement that each constituent association or entity has adopted the agreement of merger or consolidation, the manner of adoption, and that the agreement was adopted in compliance with the laws applicable to each constituent association or entity;

(c) The effective date of the merger or consolidation, which date may be on or after the date of filing of the certificate;

(d) In the case of a merger, a statement that one or more specified constituent associations or entities will be merged into a specified surviving association or entity or, in the case of a consolidation, a statement that the constituent associations or entities will be consolidated into a new association or entity;

(e) The name and address of the statutory agent upon whom any process, notice, or demand against any constituent association or entity, or the surviving or new association or entity, may be served.

(2) In the case of a merger into an association or domestic entity, any amendments to the articles of incorporation or the articles of organization of the surviving association or entity shall be filed with the certificate.

(3) In the case of a consolidation to form a new domestic association or entity, the articles of incorporation or the articles of organization of the new association or entity shall be filed with the certificate.

(4) If the surviving or new entity is a foreign entity that desires to transact business in this state as a foreign entity, the certificate shall be accompanied by the information required for qualification of a foreign entity in this state by Chapter 1703. of the Revised Code, in the case of a foreign corporation or foreign cooperative, or by sections 1705.53 and 1705.54 or 1706.511 of the Revised Code, in the case of a foreign limited liability company.

(B) A copy of the certificate of merger or consolidation, certified by the secretary of state,

may be filed for record in the office of the county recorder of any county in this state. For such recording, the county recorder shall charge and collect the same fee as in the case of deeds. The certified copy of the certificate of merger or consolidation shall be recorded in the official records of the county recorder.

(C) For purposes of this section, "domestic entity" means a corporation other than an association or a limited liability company organized under the laws of this state.

Sec. 1745.461. (A)(1) Pursuant to an agreement of merger between the constituent entities as provided in this section, a domestic unincorporated nonprofit association and, if so provided, one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic unincorporated nonprofit association. Pursuant to an agreement of consolidation, a domestic unincorporated nonprofit association together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic unincorporated nonprofit association to be formed by that consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(2) To effect a merger or consolidation under this section, the manager or managers of each constituent unincorporated nonprofit association shall approve an agreement of merger or consolidation to be signed by the manager, the chairperson, the president, or a vice-president and by the secretary or an assistant secretary or, if there are no officers, by an authorized manager. The agreement of merger or consolidation shall be approved or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(3) The agreement of merger or consolidation shall set forth all of the following:

(a) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(b) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic unincorporated nonprofit association or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or domestic entity other than a domestic unincorporated nonprofit association. The name of the surviving or new entity may be the same as or similar to that of any constituent entity.

(c) The terms of the merger or consolidation and the mode of carrying those terms into effect;

(d) If the surviving or new entity is a foreign unincorporated nonprofit association, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1745.46 of the Revised Code if the surviving or new unincorporated nonprofit association were a domestic unincorporated nonprofit association;

(e) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity in that state;

(f) All statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(g) The consent of the surviving or the new entity to be sued and served with process in this

state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any domestic constituent unincorporated nonprofit association. Such service shall be made upon the secretary of state by leaving duplicate copies of such process, together with an affidavit of the plaintiff or one of the plaintiff's attorneys, showing the last known address of such association, and a fee of up to five dollars that shall be included as taxable costs in the case of judicial proceedings. Upon receipt of such process, affidavit, and fee, the secretary of state shall immediately give notice to the association at the address specified in the affidavit and forward to such address by certified mail, with a request for return receipt, a copy of such process.

(h) If the surviving or new entity is a foreign unincorporated nonprofit association that desires to transact business in this state as a foreign unincorporated nonprofit association, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state;

(i) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(j) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state;

(k) If the surviving or new entity is a foreign unincorporated association that desires to transact business in this state as a foreign unincorporated association, a statement to that effect, together with all of the information, if any, required by the secretary of state when a foreign unincorporated association registers to transact business in this state.

(4) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(B) A merger or consolidation pursuant to this section in which a public benefit association is one of the constituent entities shall be subject to, and shall comply with, the provisions of divisions (B)(1)(b), (2), (3), and (4) of section 1745.46 of the Revised Code.

Sec. 1751.01. As used in this chapter:

(A)(1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;

(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;

(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.

"Basic health care services" does not include experimental procedures.

Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(2) A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services.

(3) A health insuring corporation that offers coverage for basic health care services is not required to offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services if all of the following apply:

(a) The health insuring corporation submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(b) The health insuring corporation submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (A)(3)(a) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

(c) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (A)(3)(a) and (b) of this section:

(i) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's

costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

(B)(1) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with either basic health care services or other supplemental health care services, and includes:

- (a) Services of facilities for intermediate or long-term care, or both;
- (b) Dental care services;
- (c) Vision care and optometric services including lenses and frames;
- (d) Podiatric care or foot care services;
- (e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;
- (f) Short-term outpatient evaluative and crisis-intervention mental health services;
- (g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;
- (h) Home health services;
- (i) Prescription drug services;
- (j) Nursing services;
- (k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;
- (l) Physical therapy services;
- (m) Chiropractic services;
- (n) Any other category of services approved by the superintendent of insurance.

(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.

(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.

(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.

(G) "Contractual periodic prepayment" means the formula for determining the premium rate

for all subscribers of a health insuring corporation.

(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(J) "Enrollee" means any natural person who is entitled to receive health care benefits provided by a health insuring corporation.

(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, intellectual disability, intermediate care, or skilled nursing services.

(M) "Health care services" means basic, supplemental, and specialty health care services.

(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan.

"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. or 1706. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities participating receive their compensation directly from the insurer, a corporation formed by or on behalf of a political subdivision or a department, office, or institution of the state, or a public entity formed by or on behalf of a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, as those terms are used in Chapters 340. and 5126. of the Revised Code. Except as provided by division (D) of section 1751.02 of the Revised Code, or as otherwise provided by law, no board, commission, agency, or other entity under the control of a political subdivision may accept insurance risk in providing for health care services. However, nothing in this division shall be construed as prohibiting such entities from purchasing the services of a health insuring corporation or a third-party administrator licensed under Chapter 3959. of the Revised Code.

(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care

services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

(Q) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

(R) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

(S)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

(T) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(U) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

(V) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

(W) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

(X) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to

maintain supervision of the health care services rendered to the enrollee.

(Y) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to preclude a health insuring corporation, health care practitioner, or organized health care group associated with a health insuring corporation from employing certified nurse practitioners, certified nurse anesthetists, clinical nurse specialists, certified nurse-midwives, pharmacists, dietitians, physician assistants, dental assistants, dental hygienists, optometric technicians, or other allied health personnel who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services.

(Z) "Provider sponsored organization" means a corporation, as defined in division (H) of this section, that is at least eighty per cent owned or controlled by one or more hospitals, as defined in section 3727.01 of the Revised Code, or one or more physicians licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code, or any combination of such physicians and hospitals. Such control is presumed to exist if at least eighty per cent of the voting rights or governance rights of a provider sponsored organization are directly or indirectly owned, controlled, or otherwise held by any combination of the physicians and hospitals described in this division.

(AA) "Solicitation document" means the written materials provided to prospective subscribers or enrollees, or both, and used for advertising and marketing to induce enrollment in the health care plans of a health insuring corporation.

(BB) "Subscriber" means a person who is responsible for making payments to a health insuring corporation for participation in a health care plan, or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health insuring corporation.

(CC) "Urgent care services" means those health care services that are appropriately provided for an unforeseen condition of a kind that usually requires medical attention without delay but that does not pose a threat to the life, limb, or permanent health of the injured or ill person, and may include such health care services provided out of the health insuring corporation's approved service area pursuant to indemnity payments or service agreements.

Sec. 1776.69. (A) Pursuant to a written agreement of merger or consolidation between the constituent entities as this section provides, a domestic partnership and one or more additional domestic or foreign entities may merge into a surviving entity other than a domestic partnership, or a domestic partnership together with one or more additional domestic or foreign entities may consolidate into a new entity, other than a domestic partnership, that is formed by the consolidation. No merger or consolidation may be carried out pursuant to this section unless it is permitted by the Revised Code chapter under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(B) Any written agreement of any merger or consolidation shall set forth all of the following:

(1) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(2) In the case of a merger, that one or more specified constituent domestic partnerships and other specified constituent entities will be merged into a specified surviving foreign entity or

surviving domestic entity other than a domestic partnership, or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or a new domestic entity other than a domestic partnership;

(3) If the surviving or new entity is a foreign partnership, all statements and matters that section 1776.68 of the Revised Code would require if the surviving or new entity were a domestic partnership;

(4) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity;

(5) Any additional statements and matters required to be set forth in an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(6) If the surviving or new entity is a foreign entity, the consent of the surviving or new foreign entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new foreign entity any obligation of any constituent domestic partnership or to enforce the rights of a dissenting partner of any constituent domestic partnership;

(7) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(8) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(9) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state;

(10) If the surviving or new entity is a foreign limited liability partnership that desires to transact business in this state as a foreign limited liability partnership, a statement to that effect, together with all of the information required under section 1776.86 of the Revised Code when a foreign limited liability partnership registers to transact business in this state.

(C) The written agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(D) To effect the merger or consolidation, the partners of each constituent domestic partnership shall adopt an agreement of merger or consolidation in the same manner and with the same notice to and vote or action of partners or of a particular class or group of partners as section 1776.68 of the Revised Code requires. The agreement of merger or consolidation also shall be approved or otherwise authorized by or on behalf of each constituent entity in accordance with the

laws under which it exists. An agreement of merger or consolidation is not effective against a person who would continue to be or who would become a general partner of an entity that is the surviving or new entity in a merger or consolidation unless that person specifically agrees in writing either to continue or to become, as the case may be, a general partner of the surviving or new entity.

(E)(1) At any time before filing the certificate of merger or consolidation pursuant to section 1776.70 of the Revised Code, if the agreement of merger or consolidation permits, the partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity may abandon the merger or consolidation.

(2) The agreement of merger or consolidation may authorize less than all of the partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that, after the adoption of the agreement of merger or consolidation by the partners of any constituent domestic partnership, only with the approval of all the partners may any agreement of merger or consolidation be amended to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by partners of the constituent domestic partnership in conversion of or in exchange for their interests;

(b) If the surviving or new entity is a partnership, alter or change any term of the partnership agreement of the surviving or new partnership, except for alterations or changes that could be adopted by those partners by the terms of the partnership agreement of the surviving or new partnership as would be in effect after the merger or consolidation;

(c) If the surviving or new entity is a corporation or any other entity other than a partnership, alter or change any term of the articles or comparable instrument of the surviving or new corporation or entity, except for alterations or changes that otherwise could be adopted by the directors or comparable representatives of the surviving or new corporation or entity;

(d) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the partners or any class or group of partners of the constituent domestic partnership.

Sec. 1776.82. (A) The name of a limited liability partnership shall contain "registered limited liability partnership," "registered partnership having limited liability," "limited liability partnership," "R.L.L.P.," "P.L.L.," "L.L.P.," "RLLP," "PLL," or "LLP."

(B) The name of a domestic registered limited liability partnership or foreign limited liability partnership shall be distinguishable upon the records in the office of the secretary of state from all of the following:

(1) The name of any other limited liability partnership registered in the office of the secretary of state pursuant to this chapter or Chapter 1775. of the Revised Code, whether domestic or foreign;

(2) The name of any domestic corporation that is formed under Chapter 1701. or 1702. of the Revised Code or any foreign corporation that is registered pursuant to Chapter 1703. of the Revised Code;

(3) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign;

(4) The name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign;

(5) Any trade name the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

Sec. 1782.02. (A) The name of any limited partnership, as set forth in its certificate of limited partnership, shall include "Limited Partnership," "L.P.," "Limited," or "Ltd." and shall not contain the name of a limited partner unless either of the following are true:

(1) It is also the name of a general partner;

(2) The business of the limited partnership had been carried on under that name before the admission of that limited partner.

(B) The name of a limited partnership shall be distinguishable upon the records in the office of the secretary of state from all of the following:

(1) The name of any other limited partnership registered in the office of the secretary of state pursuant to this chapter, whether domestic or foreign;

(2) The name of any domestic corporation that is formed under Chapter 1701. or 1702. of the Revised Code or any foreign corporation that is registered pursuant to Chapter 1703. of the Revised Code;

(3) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. or 1706. of the Revised Code, whether domestic or foreign;

(4) The name of any limited liability partnership registered in the office of the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code, whether domestic or foreign;

(5) Any trade name the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

Sec. 1782.432. (A) Pursuant to an agreement of merger or consolidation between the constituent entities as provided in this section, a domestic limited partnership and one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic limited partnership, or a domestic limited partnership together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic limited partnership to be formed by such consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(B) The agreement of merger or consolidation shall set forth all of the following:

(1) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(2) In the case of a merger, that one or more specified constituent domestic limited partnerships and other specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic limited partnership, or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or a new domestic entity other than a domestic limited partnership;

(3) If the surviving or new entity is a foreign limited partnership, all additional statements and matters, other than the name and address of the statutory agent, that would be required by section 1782.431 of the Revised Code if the surviving or new entity were a domestic limited partnership;

(4) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity;

(5) All additional statements and matters required to be set forth in such an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(6) The consent of the surviving or new entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new entity any obligation of any constituent domestic limited partnership or to enforce the rights of a dissenting partner of any constituent domestic limited partnership;

(7) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(8) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(9) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 or 1706.511 of the Revised Code when a foreign limited liability company registers to transact business in this state.

(C) The agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be adopted by the general partners of each constituent domestic limited partnership, in the same manner and with the same notice to and vote or action of partners or of a particular class or group of partners as is required by section 1782.431 of the Revised Code. The agreement of merger or consolidation also shall be approved or otherwise authorized by or on behalf of each constituent entity in accordance with the laws under which it exists. Each person who will continue to be or who will become a general partner of a partnership that is the surviving or new entity in a merger or consolidation shall specifically agree to continue or to become, as the case may be, a general partner of the surviving or new entity.

(E) At any time before the filing of the certificate of merger or consolidation pursuant to section 1782.433 of the Revised Code, the merger or consolidation may be abandoned by the general partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity if the general partners, directors, or comparable representatives are authorized to do so by the agreement of merger or consolidation. The agreement of merger or consolidation may contain a provision authorizing the general partners of any

constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that after the adoption of the agreement of merger or consolidation by the limited partners of any constituent domestic limited partnership, the general partners shall not be authorized to amend the agreement of merger or consolidation to do any of the following:

(1) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by limited partners of the constituent domestic limited partnership in conversion of or in substitution for their interests;

(2) If the surviving or new entity is a partnership, alter or change any term of the partnership agreement of the surviving or new partnership, except for alterations or changes that otherwise could be adopted by the general partners of the surviving or new partnership;

(3) If the surviving or new entity is a corporation or any other entity other than a partnership, alter or change any term of the articles or comparable instrument of the surviving or new corporation or entity, except for alterations or changes that otherwise could be adopted by the directors or comparable representatives of the surviving or new corporation or entity;

(4) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the limited partners or any class or group of limited partners of the constituent domestic limited partnership.

Sec. 1785.09. This chapter does not preclude the rendering of a professional service within this state by a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, or a foreign limited liability company registered with the secretary of state and transacting business in this state in accordance with sections 1705.53 to 1705.58 or 1706.51 to 1706.515 of the Revised Code.

Sec. 3345.203. (A) As used in this section:

(1) "Claims expenses" means payment of judgments, settlement of claims, expense, loss, and damage.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(B) Regardless of whether a state university or college secures insurance coverages under division (B)(1), (2), or (3) of section 3345.202 of the Revised Code, the board of trustees of the state university or college may join with other state universities or colleges in establishing and maintaining a joint self-insurance pool to do both of the following:

(1) Provide for payment of claims expenses that arise, or are claimed to have arisen, from an act or omission of the state university or college or any of its employees or other persons authorized by the board while doing either of the following:

(a) Acting in the scope of their employment or official responsibilities;

(b) Being engaged in activities undertaken at the request or direction, or for the benefit, of the state university or college.

(2) Indemnify or hold harmless the state university's or college's employees against such loss or damage.

The joint self-insurance pool shall be pursuant to a written agreement and to the extent that the board considers the pool to be necessary.

(C) All of the following apply to a joint self-insurance pool under this section:

(1) The funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential state university or college and employee liabilities, loss, and damage. A report of aggregate amounts so reserved and aggregate disbursements made from such funds shall be prepared and maintained in the office of the pool administrator described in division (C)(2) of this section. The report shall be prepared and maintained not later than ninety days after the close of the pool's fiscal year.

The report required by this division shall include, but not be limited to, the aggregate of disbursements made for the administration of the pool, including claims paid, costs of the legal representation of state universities or colleges and employees, and fees paid to consultants. The report also shall be accompanied by a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles.

The pool administrator described in division (C)(2) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours. Upon the request of such person, the pool administrator shall make copies of the report available at cost within a reasonable period of time. The pool administrator also shall submit a copy of the report to the auditor of state. The report required by this division is in lieu of the records required by division (A) of section 149.431 of the Revised Code.

(2) The board of trustees establishing a joint self-insurance pool may award a contract, without the necessity of competitive bidding, to a pool administrator for purposes of administration of the joint self-insurance pool. A "pool administrator" may be any person, political subdivision, limited liability company organized under Chapter 1705. or 1706. of the Revised Code, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code. The board shall not enter into such a contract without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any state university or college or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the board of trustees of the state university or college prior to the meeting at which the board of trustees of the state university or college authorizes the contract.

(3) A joint self-insurance pool shall include a contract with a member of the American academy of actuaries for the preparation of the written evaluation of the reserve funds required under division (C)(1) of this section.

(4) A joint self-insurance pool may allocate the costs of funding the pool among the funds or accounts in the treasuries of the state universities or colleges on the basis of their relative exposure and loss experience. A joint self-insurance program may require any deductible under the program to be paid from funds or accounts in the treasury of the state university or college from which a loss was directly attributable.

(D) Two or more state universities or colleges may also authorize the establishment and maintenance of a joint risk-management program, including but not limited to the employment of risk managers and consultants, for the purpose of preventing and reducing the risks covered by insurance, self-insurance, or joint self-insurance programs. A joint risk-management program shall not include fidelity, surety, or guarantee bonding.

(E) A state university or college is not liable under a joint self-insurance pool for any amount in excess of amounts payable pursuant to the written agreement for the participation of the state university or college in the joint self-insurance pool. Under a joint self-insurance pool agreement a state university or college may, to the extent permitted under the written agreement, assume the risks of any other state university or college, including the indemnification of its employees. A joint self-insurance pool, established under this section, is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance pool to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(F)(1) In the manner provided by and subject to the applicable provisions of section 3345.12 of the Revised Code, any state university or college may issue obligations and may also issue notes in anticipation of such obligations, pursuant to a resolution of its board of trustees or other governing body for the purpose of providing funds to do both of the following:

- (a) Pay claims expenses, whether by way of a reserve or otherwise;
- (b) Pay the state university or college's portion of the cost of establishing and maintaining a joint self-insurance pool or to provide for the reserve in a special fund authorized by division (C)(1) of this section.

(2) Sections 9.98 to 9.983 of the Revised Code apply to bonds or notes authorized under this section.

(G)(1) A joint self-insurance pool, in addition to its powers to provide self-insurance against any and all liabilities under this chapter, may also include any one or more of the following forms of property or casualty self-insurance for the purpose of covering any other liabilities or risks of the members of the pool:

- (a) Public general liability, professional liability, or employee liability;
- (b) Individual or fleet motor vehicle or automobile liability and protection against other liability and loss associated with the ownership, maintenance, and use of motor vehicles;
- (c) Aircraft liability and protection against other liability and loss associated with the ownership, maintenance, and use of aircraft;
- (d) Loss or damage to property and loss of use and occupancy of property by fire, lightning, hail, tempest, flood, earthquake, or snow, explosion, accident, or other risk;
- (e) Marine, inland transportation and navigation, boiler, containers, pipes, engines, flywheels, elevators, and machinery;
- (f) Environmental impairment;
- (g) Loss or damage by any hazard upon any other risk to which state universities or colleges are subject, which is not prohibited by statute or at common law from being the subject of casualty or property insurance.

(2) A joint self-insurance pool is not an insurance company. Its operation does not constitute

doing an insurance business and is not subject to the insurance laws of this state.

(H) A public official or employee of a state university or college who is or becomes a member of the governing body of a joint self-insurance pool in which the state university or college participates is not in violation of any of the following as a result of the state university or college entering into the written agreement to participate in the pool or into any contract with the pool:

- (1) Division (D) or (E) of section 102.03 of the Revised Code;
- (2) Division (C) of section 102.04 of the Revised Code;
- (3) Section 2921.42 of the Revised Code.

(I) This section shall not be construed to affect the ability of any state university or college to self-insure under the authority conferred by any other section of the Revised Code.

(J) The establishment or participation in a joint self-insurance pool under this section shall not constitute a waiver of any immunity or defense available to the member state university or college or to any covered entity.

(K)(1) Both of the following shall be determined in the court of claims pursuant to section 2743.02 of the Revised Code:

(a) Any claims or litigation relating to the administration of a joint self-insurance pool created pursuant to this section, including any immunities or defenses;

(b) Any claims relating to the scope of or denial of coverage under that pool or its administration.

(2) The pool administrator described in division (C)(2) of this section and its employees, while in the course of administering a joint self-insurance pool under this section, shall:

(a) Be deemed to be an instrumentality of the state for the purposes of Chapter 2743. of the Revised Code;

(b) Be deemed to be performing a public duty, as defined in section 2743.01 of the Revised Code; and

(c) Have the defenses to, and immunities from, civil liability provided in section 2743.02 of the Revised Code.

Sec. 3964.03. (A) A captive insurance company shall be organized under Chapter 1701., 1702., ~~or 1705.~~, or 1706. of the Revised Code.

(B) A captive insurance company shall not operate in this state unless all of the following are met:

(1) The captive insurance company obtains from the superintendent a license to do the business of captive insurance in this state.

(2) The captive insurance company's board of directors holds at least one meeting each year in this state.

(3) The captive insurance company maintains its principal place of business in this state.

(4) The person managing the captive insurance company is a resident of this state.

(5) The captive insurance company appoints a registered agent to accept service of process and act on its behalf in this state.

(C) Whenever an agent required under division (B)(5) of this section cannot, with reasonable diligence, be found at the registered office of the captive insurance company, the superintendent shall be an agent of such a captive insurance company upon whom any process, notice, or demand may be

served.

(D) A captive insurance company seeking a license to be a captive insurance company in this state shall file an application with the superintendent and shall submit all of the following along with the application:

(1) A certified copy of its articles of incorporation, bylaws, or other organizational document and code of regulations;

(2) A statement, made under oath by the president and secretary, in a form prescribed by the superintendent, showing the captive insurance company's financial condition;

(3) A statement of the captive insurance company's assets relative to its risks, detailing the amount of assets and their liquidity;

(4) An account of the adequacy of the expertise, experience, and character of the person or persons who will manage the captive insurance company;

(5) An account of the loss prevention programs of the persons that the captive insurance company insures;

(6) Actuarial assumptions and methodologies that will be utilized in calculating reserves;

(7) Any other information considered necessary by the superintendent to determine whether the proposed captive insurance company will be able to meet its obligations.

(E)(1) A special purpose financial captive insurance company shall follow the national association of insurance commissioner's accounting practices and procedures manual.

(2)(a) Upon request, the superintendent may allow a special purpose financial captive insurance company to use a reserve basis other than that found in the national association of insurance commissioner's accounting practices and procedures manual.

(b) The superintendent, in accordance with Chapter 119. of the Revised Code, shall adopt rules that define acceptable alternative reserve bases.

(c) Such rules shall be adopted prior to availability for use of any such alternative reserve basis and shall ensure that the resulting reserves meet all of the following conditions:

(i) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(ii) Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(iii) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(d) An alternative basis for calculating a reserve approved by the superintendent shall be treated as a public document after the date the alternative basis for calculating the reserve has been approved, regardless of the application of the uniform trade secrets act set forth in sections 1333.61 to 1333.69 of the Revised Code.

(3) The special purpose financial captive insurance company shall submit a request for an alternative reserve basis in writing, and affirmed by the company's appointed actuary, that includes,

at a minimum, the following information for the superintendent to consider in evaluating the request:

(a) The reserves based on the national association of insurance commissioner's accounting practices and procedures manual and the reserves based on the proposed alternative method for calculation and the difference between these two calculations;

(b) A detailed analysis of the proposed alternative method explaining why the use of an alternative basis for calculating the reserve is appropriate;

(c) All assumptions utilized within the proposed alternative method, together with the source of the assumptions, as well as information, satisfactory to the superintendent, supporting the appropriateness of the assumptions and analysis and identifying the assumptions that result in the greatest variability in the reserve and how that analysis was used in setting those assumptions;

(d) A detailed overview of the corporate governance and oversight of the actuarial valuation function;

(e) Any other information the superintendent may require to assess the proposed alternative method for approval or disapproval.

(4) At the expense of the special purpose financial captive insurance company, the superintendent may require the company to secure the affirmation of an independent qualified actuary in support of any alternative basis for calculating the reserve that is requested pursuant to this section or to assist the superintendent in the review of said request.

(5) If the superintendent approves the use of an alternative basis for calculating a reserve, the special purpose financial captive insurance company, and the ceding insurer shall each include a note in its financial statements disclosing the use of a basis other than the national association of insurance commissioner's accounting practices and procedures manual and the difference between the reserve amount determined under the alternative basis and the reserve amount that would have been determined had the company utilized the national association of insurance commissioner's accounting practices and procedures manual.

(6)(a) The superintendent shall establish an acceptable total capital and surplus requirement for each insurance company that will cede risks and obligations to a special purpose financial captive insurance company. The total capital and surplus requirement must be met at the time the special purpose financial captive insurance company applies for a license to do the business of captive insurance. The total capital and surplus requirement shall be determined in accordance with a minimum required total capital and surplus methodology that meets both of the following requirements:

(i) Is consistent with current risk-based capital principles;

(ii) Takes into account all material risks and obligations, as well as the assets, of the insurance company.

(b) An insurance company ceding risks and obligations to a special purpose financial captive insurance company shall fully disclose all material risks and obligations, as well as its assets and all affiliated captive insurance company risks. The ceding insurance company shall advise the superintendent whenever there is a material change to such risks, obligations, or assets.

(F) In determining whether to approve an application for a license, the superintendent shall consider all of the following:

(1) The character, reputation, financial standing, and purposes of the incorporators, or other

founders, of the captive insurance company;

(2) The character, reputation, financial responsibility, experience relating to insurance, and business qualifications of the officers and directors of the captive insurance company;

(3) The amount of liquidity and assets of the captive insurance company relative to the risks to be assumed;

(4) The adequacy of the expertise, experience, and character of the person or persons who will manage the captive insurance company;

(5) The overall soundness of the plan of operation;

(6) The adequacy of the loss prevention programs of the persons that the captive insurance company insures.

(G)(1) Each captive insurance company that offers direct insurance to its parent shall submit to the superintendent for approval a detailed description of the coverages, deductibles, coverage limits, proposed rates or rating plans, documentation from a qualified actuary that demonstrates the actuarial soundness of the proposed rates or rating plans, and other such additional information as the superintendent may require.

(2)(a) Any captive insurance company licensed under the provisions of this chapter that seeks to make any material change to any item described in division (G)(1) of this section shall submit to the superintendent for approval a detailed description of the revision, documentation from a qualified actuary that demonstrates the actuarial soundness of the revised rates or rating plans, and other such additional information as the superintendent may require.

(b) Each filing under division (G)(2)(a) of this section is deemed approved thirty days after the filing is received by the superintendent of insurance, unless the filing is disapproved by the superintendent during that thirty-day period.

(c) If at any time subsequent to the thirty-day review period the superintendent finds that a filing does not demonstrate actuarial soundness, the superintendent shall hold a hearing requiring the captive insurance company to show cause why an order should not be made by the superintendent to disapprove the revised rates or rating plans.

(d) If, upon such a hearing, the superintendent finds that the captive insurance company failed to demonstrate the actuarial soundness of the rates or rating plans, the superintendent shall issue an order directing the captive insurance company to cease and desist from using the revised rates or rating plans and to use rates or rating plans as determined appropriate by the superintendent.

(H) Except as otherwise provided in this division, documents and information submitted by a captive insurance company pursuant to this section are not subject to section 149.43 of the Revised Code, and are confidential, and may not be disclosed by the superintendent or any employee of the department of insurance without the written consent of the company.

(1) Such documents and information may be discoverable in a civil action in which the captive insurance company filing the material is a party upon a finding by a court of competent jurisdiction that the information sought is relevant and necessary to the case and the information sought is unavailable from other, nonconfidential sources.

(2) The superintendent may, at the superintendent's sole discretion, share documents required under this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of the

superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries provided that the recipient agrees to maintain the confidential or privileged status of the documents and has authority to do so.

(I)(1) Each applicant for a license to do the business of a captive insurance company in this state shall pay to the superintendent a nonrefundable fee of five hundred dollars for processing its application for a license. The superintendent is authorized to retain legal, financial, and examination services from outside the department, at the expense of the applicant. Each captive insurance company shall annually pay a license renewal fee of five hundred dollars.

(2) The fees collected pursuant to division (I)(1) of this section shall be deposited into the state treasury to the credit of the captive insurance regulation and supervision fund created under section 3964.15 of the Revised Code.

Sec. 3964.17. (A) As used in sections 3964.17 to 3964.1710 of the Revised Code:

(1) "Protected cell" means an incorporated cell that is organized pursuant to Chapter 1701., 1702., ~~or 1705.~~ or 1706. of the Revised Code and that has a separate legal identity from the protected cell captive insurance company of which it is a part.

(2) "Protected cell captive insurance company" means a captive insurance company that meets all of the following requirements:

- (a) Is formed and licensed under the provisions of this chapter;
- (b) Insures or reinsures the risks of separate participants through a participant contract;
- (c) Segregates each participant's liability into a protected cell.

(3) "Participant" means an individual, company, corporation, partnership, limited liability company, and their affiliated entities that insure or reinsure with a protected cell. "Participant" includes an insurance agent licensed in this state that accepts a stated percentage of risk on a pro rata basis within a defined category of business underwritten by a licensed insurance company that is domiciled in this state and that is affiliated with a protected cell captive insurance company.

(4) "Participant contract" means a contract by which a protected cell insures or reinsures the risks of a participant.

(a) A participant that is not an insurance agent licensed in this state shall insure or reinsure only its own risks through a protected cell.

(b) If the participant is an insurance agent licensed in this state, the participant contract must define each risk covered by the contract with fixed and certain terms.

(B) A captive insurance company may be organized as a protected cell captive insurance company and shall be permitted to form one or more protected cells under this section to insure or reinsure risks of one or more participants.

(C) The assets and liabilities of each protected cell shall be held separately from the assets and liabilities of all other protected cells.

(D) A protected cell of a protected cell captive insurance company shall be organized pursuant to Chapter 1701., 1702., ~~or 1705.~~ or 1706. of the Revised Code.

(E) A protected cell captive insurance company shall, at the time of paying the annual fee required under section 3964.13 of the Revised Code, pay an additional annual fee for each protected

cell in an amount to be established by the superintendent.

(F) Each protected cell of a protected cell captive insurance company shall be treated as a captive insurance company for purposes of this chapter.

(G) Unless otherwise permitted by the articles of incorporation, bylaws, code of regulations, or other organizational document of a protected cell captive insurance company, each protected cell of the protected cell captive insurance company shall have the same directors, secretary, and registered office as the protected cell captive insurance company.

(H) A protected cell captive insurance company may provide in its articles of incorporation, bylaws, code of regulations, or other organizational documents that a protected cell it creates shall be wound up and dissolved upon any of the following:

(1) The bankruptcy, death, expulsion, insanity, resignation, or retirement of any participant of the protected cell;

(2) The happening of some event that is not the expiration of a fixed period of time;

(3) The expiration of a fixed period of time.

(I)(1) The articles of incorporation, bylaws, code of regulations, or other organizational documents, of a protected cell captive insurance company shall provide that a protected cell shall not own shares or membership interests in the protected cell captive insurance company of which it is a part.

(2) Such a document may provide that a protected cell may own shares or membership interests in any other protected cell of the protected cell captive insurance company of which it is a part.

(J) The name of a protected cell captive insurance company shall include the words "protected cell captive" or the abbreviation "PCC."

(K) A protected cell captive insurance company shall assign a distinctive name to each of its protected cells that meets all of the following:

(1) The name identifies the protected cell as being part of the protected cell captive insurance company.

(2) The name distinguishes the protected cell from any other protected cell of the protected cell captive insurance company.

(3) The name includes the words "protected cell" or the abbreviation "PC."

(L) A protected cell may enter into an agreement with its protected cell captive insurance company or with another protected cell of the same protected cell captive insurance company.

(M)(1) The assets of a protected cell captive insurance company shall be either cell assets or general assets.

(2) The cell assets comprise the assets of the protected cell captive insurance company that are held within or on behalf of its protected cells.

(3) The general assets of a protected cell captive insurance company comprise the assets of the protected cell captive insurance company that are not cell assets.

(N)(1) The liabilities of a protected cell captive insurance company shall be either cell liabilities or general liabilities.

(2) The cell liabilities comprise the obligations of the protected cell captive insurance company attributable to its protected cells.

(3) The general liabilities of a protected cell captive insurance company comprise the obligations of the protected cell captive insurance company that are not cell liabilities.

(O) Each protected cell insurance company shall account separately on its books and records for each of its protected cells to reflect the financial condition and results of operations of the protected cell, including net income or loss, dividends or other distributions to participants, and such other factors as may be provided by participant contracts or required by the superintendent.

(P) Each protected cell captive insurance company shall annually file with the superintendent such financial reports as the superintendent requires, which shall include financial statements detailing the financial experience of each protected cell and a statement regarding the adequacy of reserves kept to make full provision for the liabilities insured by each protected cell.

(Q) An officer or manager of a protected cell captive insurance company shall immediately notify the superintendent if any protected cell of the protected cell captive insurance company or the protected cell captive insurance company itself is trending toward reserves that are inadequate, or if a protected cell or the protected cell captive insurance company becomes insolvent or is otherwise unable to meet its claims or other obligations.

(R) The duties of a director of a protected cell captive insurance company under this chapter shall be in addition to, and not in lieu of, those under other applicable law.

Sec. 4701.14. (A) Except as permitted by rules adopted by the accountancy board, no individual shall assume or use the title or designation "certified public accountant," "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," or "registered accountant," or any other title or designation likely to be confused with "certified public accountant," or any of the abbreviations "CPA," "PA," "CA," "EA," "LA," or "RA," or similar abbreviations likely to be confused with "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant, unless the individual holds a CPA certificate and holds an Ohio permit. However, an individual who possesses a foreign certificate, has registered under section 4701.09 of the Revised Code, and holds an Ohio permit may use the title permitted under the laws of the individual's other licensing jurisdiction, followed by the name of the jurisdiction.

(B) Except as permitted by rules adopted by the board, no individual shall assume or use the title or designation "public accountant," "certified public accountant," "certified accountant," "chartered accountant," "enrolled accountant," "registered accountant," or "licensed accountant," or any other title or designation likely to be confused with "public accountant," or any of the abbreviations "PA," "CPA," "CA," "EA," "LA," or "RA," or similar abbreviations likely to be confused with "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a public accountant, unless the individual holds a PA registration and holds an Ohio permit, or unless the individual holds a CPA certificate. An individual who holds a PA registration and an Ohio permit may hold self out to the public as an "accountant" or "auditor."

(C) Except as provided in divisions (C)(1), (2), (3), and (4) of this section, no partnership, professional association, corporation-for-profit, limited liability company, or other business organization not addressed in this section that is practicing public accounting in this state shall assume or use the title or designation "certified public accountant," "public accountant," "certified

accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "CPA," "PA," "CA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA" or "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the business organization is a public accounting firm.

(1)(a) A partnership may assume or use the title or designation "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership is composed of certified public accountants if it is a registered firm, if a majority of its partners who are individuals hold a CPA certificate or a foreign certificate, and if a majority of the owners of any qualified firm that is a partner hold a CPA certificate or a foreign certificate.

(b) A partnership may assume or use the title or designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership is composed of public accountants if it is a registered firm, if a majority of its partners who are individuals hold a PA registration, a CPA certificate, or a foreign certificate, and if a majority of the owners of any qualified firm that is a partner hold a PA registration, a CPA certificate, or a foreign certificate.

(2)(a) A professional association incorporated under Chapter 1785. of the Revised Code may assume or use the title or designation "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the professional association is composed of certified public accountants if it is a registered firm, if a majority of its shareholders who are individuals hold a CPA certificate or a foreign certificate, and if a majority of the owners of any qualified firm that is a shareholder hold a CPA certificate or a foreign certificate.

(b) A professional association incorporated under Chapter 1785. of the Revised Code may assume or use the title or designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the professional association is composed of public accountants if it is a registered firm, if a majority of its shareholders who are individuals hold a PA registration, a CPA certificate, or a foreign certificate, and if a majority of the owners of any qualified firm that is a shareholder hold a PA registration, a CPA certificate, or a foreign certificate.

(3)(a) A corporation-for-profit incorporated under Chapter 1701. of the Revised Code may assume or use the title or designation "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the corporation is composed of certified public accountants if it is a registered firm, if a majority of its shareholders who are individuals hold a CPA certificate or a foreign certificate, and if a majority of the owners of any qualified firm that is a shareholder hold a CPA certificate or a foreign certificate.

(b) A corporation incorporated under Chapter 1701. of the Revised Code may assume or use the title or designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the corporation is composed of public accountants if it is a registered firm, if a majority of the shareholders who are individuals

hold a PA registration, a CPA certificate, or a foreign certificate, and if a majority of the owners of any qualified firm that is a shareholder hold a PA registration, a CPA certificate, or a foreign certificate.

(4)(a) A limited liability company organized under Chapter 1705. or 1706. of the Revised Code may assume or use the title or designation "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the limited liability company is composed of certified public accountants if it is a registered firm, if a majority of its members who are individuals hold a CPA certificate or a foreign certificate, and if a majority of the owners of any qualified firm that is a member hold a CPA certificate or a foreign certificate.

(b) A limited liability company organized under Chapter 1705. or 1706. of the Revised Code may assume or use the title or designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the limited liability company is composed of public accountants if it is a registered firm, if a majority of the members who are individuals hold a PA registration, CPA certificate, or a foreign certificate, and if a majority of the owners of any qualified firm that is a member hold a PA registration, a CPA certificate, or a foreign certificate.

(D) No individual shall sign, affix, or associate the individual's name or any trade or assumed name used by the individual in the individual's profession or business to any attest report with any wording indicating that the individual is an accountant or auditor, or with any wording accompanying or contained in the attest report that indicates that the individual has expert knowledge in accounting or auditing or expert knowledge regarding compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, unless the individual holds an Ohio permit. However, this division does not prohibit any officer, employee, partner, or principal of any organization from affixing the officer's, employee's, partner's, or principal's signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title, or office that the individual holds in that organization. This division also does not prohibit any act of a public official or public employee in the performance of the public official's or public employee's duties.

(E) No person shall sign, affix, or associate the name of a partnership, limited liability company, professional association, corporation-for-profit, or other business organization not addressed in this section to any attest report with any wording accompanying or contained in the attest report that indicates that the partnership, limited liability company, professional association, corporation-for-profit, or other business organization is composed of or employs accountants or auditors or persons having expert knowledge in accounting or auditing or expert knowledge regarding compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, unless the partnership, limited liability company, professional association, corporation-for-profit, or other business organization is a registered firm.

(F) No individual who does not hold an Ohio permit shall hold self out to the public as an "accountant" or "auditor" by use of either or both of those words on any sign, card, or letterhead, in any advertisement or directory, or otherwise, without indicating on the sign, card, or letterhead, in the

advertisement or directory, or in the other manner of holding out that the person does not hold an Ohio permit. An individual who holds a CPA certificate and an Ohio permit may hold self out to the public as an "accountant" or "auditor." However, this division does not prohibit any officer, employee, partner, or principal of any organization from describing self by the position, title, or office the person holds in that organization. This division also does not prohibit any act of a public official or public employee in the performance of the public official's or public employee's duties.

(G) No partnership, professional association, corporation-for-profit, limited liability company, or other business organization not addressed in this section that is not entitled to assume or use the title "certified public accountant" or "public accountant" under division (C) of this section shall hold itself out to the public as a partnership, professional association, corporation-for-profit, limited liability company, or other business organization not addressed in this section as being composed of or employing "accountants" or "auditors" by use of either or both of those words on any sign, card, or letterhead, in any advertisement or directory, or otherwise, without indicating on the sign, card, or letterhead, in the advertisement or directory, or in the other manner of holding out that the partnership, professional association, corporation-for-profit, limited liability company, or other business organization is not a registered firm and is not permitted by law to practice as a public accounting firm.

(H) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or in conjunction with the designation "and Company" or "and Co." or a similar designation if, in any of those cases, there is in fact no bona fide partnership entitled to designate itself as a partnership of certified public accountants under division (C)(1)(a) of this section or as a partnership of public accountants under division (C)(1)(b) of this section. However, a sole proprietor or partnership that was on October 22, 1959, or a corporation that on or after September 30, 1974, has been, lawfully using a title or designation of those types in conjunction with names or designations of those types, may continue to do so if the sole proprietor, partnership, or corporation otherwise complies with this section.

(I)(1) Notwithstanding any other provision of this chapter, an individual whose principal place of business is not in this state and who holds a valid foreign certificate as a certified public accountant shall be presumed to have qualifications substantially equivalent to this state's CPA requirements and shall have all of the privileges of a holder of a CPA certificate and an Ohio permit without the need to obtain a CPA certificate and an Ohio permit if the accountancy board has found and has specified in its rules adopted pursuant to division (A) of section 4701.03 of the Revised Code that the CPA requirements of the state that issued the individual's foreign certificate are substantially equivalent to this state's CPA requirements.

(2) Any individual exercising the privilege afforded under division (I)(1) of this section hereby consents and is subject, as a condition of the grant of the privilege, to all of the following:

- (a) The personal and subject matter jurisdiction of the accountancy board;
- (b) All practice and disciplinary provisions of this chapter and the accountancy board's rules;
- (c) The appointment of the board that issued the individual's foreign certificate as the individual's agent upon whom process may be served in any action or proceeding by the accountancy board against the individual.

(3) The holder of a CPA certificate and an Ohio permit who offers or renders attest services or uses the holder's CPA title in another state shall be subject to disciplinary action in this state for an act committed in the other state for which the holder of a foreign certificate issued by the other state would be subject to discipline in the other state.

(4) The holder of a foreign certificate who offers or renders attest services or uses a CPA title or designation in this state pursuant to the privilege afforded by division (I)(1) of this section shall be subject to disciplinary action in this state for any act that would subject the holder of a CPA certificate and an Ohio permit to disciplinary action in this state.

Sec. 4703.18. (A) No person shall enter upon the practice of architecture or hold forth as an architect or registered architect, unless the person has complied with sections 4703.01 to 4703.19 of the Revised Code and is the holder of a certificate of qualification to practice architecture issued or renewed and registered under those sections.

(B) Sections 4703.01 to 4703.19 of the Revised Code do not prevent persons other than architects from filing applications for building permits or obtaining those permits.

(C) Sections 4703.01 to 4703.19 of the Revised Code do not prevent persons other than architects from preparing plans, drawings, specifications, or data, filing applications for building permits, or obtaining those permits for residential buildings, as defined by section 3781.06 of the Revised Code, or buildings erected as industrialized one-, two-, or three-family units or structures within the meaning of the term "industrialized unit" as provided in section 3781.06 of the Revised Code.

(D) Sections 4703.01 to 4703.19 of the Revised Code do not prevent persons other than architects from preparing drawings or data, from filing applications for building permits, or from obtaining those permits for the installation of replacement equipment or systems that are similar in type or capacity to the equipment or systems being replaced, and for any improvement, alteration, repair, painting, decorating, or other modification of any buildings or structures subject to sections 3781.06 to 3781.18 and 3791.04 of the Revised Code where the building official determines that no plans or specifications are required for approval.

(E) Sections 4703.01 to 4703.19 of the Revised Code do not exclude a registered professional engineer from architectural practice that may be incident to the practice of engineering or exclude a registered architect from engineering practice that may be incident to the practice of architecture.

(F) Sections 4703.01 to 4703.19 of the Revised Code do not prevent a firm, partnership, association, limited liability company, or corporation of architects registered under those sections from providing architectural services and do not prevent an individual registered as a landscape architect under sections 4703.30 to 4703.49 of the Revised Code or as a professional engineer under Chapter 4733. of the Revised Code from being a member or trustee of a firm, partnership, association, limited liability company, or corporation of that type, but a member or trustee of that type shall not engage in the practice of architecture or hold forth as an architect contrary to sections 4703.01 to 4703.19 of the Revised Code and shall not practice a profession in which the person is not licensed.

(G) A firm, partnership, association, limited liability company, or corporation may provide architectural services in this state as long as the services are provided only through natural persons registered to provide those services in this state, subject to the exemptions in section 4703.17 of the

Revised Code and subject otherwise to the requirements of sections 4703.01 to 4703.19 of the Revised Code.

(H) No firm, partnership, association, limited liability company, or corporation shall provide architectural services, hold itself out to the public as providing architectural services, or use a name including the word "architect" or any modification or derivation of the word, unless the firm, partnership, association, limited liability company, or corporation files all information required to be filed under this section with the architects board and otherwise complies with all requirements of sections 4703.01 to 4703.19 of the Revised Code. A nonprofit membership corporation may use a name including the word "architect" or any modification or derivation of the word without complying with this section.

(I) A corporation may be organized under Chapter 1701. of the Revised Code, a professional association may be organized under Chapter 1785. of the Revised Code, or a limited liability company may be formed under Chapter 1705. or 1706. of the Revised Code for the purpose of providing professional engineering, surveying, architectural, or landscape architectural services, or any combination of those services. A corporation organized under Chapter 1701. of the Revised Code for the purpose of providing those services also may be organized for any other purpose in accordance with that chapter.

(J) No firm, partnership, association, limited liability company, or corporation shall provide or offer to provide architectural services in this state unless more than fifty per cent of the partners, members, or shareholders, more than fifty per cent of the directors in the case of a corporation or professional association, more than fifty per cent of the managers in the case of a limited liability company the management of which is not reserved to its members, and more than fifty per cent of the trustees in the case of an employee stock ownership plan, are professional engineers, surveyors, architects, or landscape architects or a combination of those professions, who are registered in this or any other state and who own more than fifty per cent of the interests in the firm, partnership, association, limited liability company, or corporation; unless the requirements of this division and of section 1785.02 of the Revised Code are satisfied with respect to any professional association organized under Chapter 1785. of the Revised Code; or unless the requirements of this division and of Chapter 1705. or 1706. of the Revised Code are satisfied with respect to a limited liability company formed under that chapter.

A corporation is exempt from the requirements of division (J) of this section if the corporation was granted a charter prior to August 7, 1943, to engage in providing architectural services or was otherwise lawfully providing architectural services prior to November 15, 1982, in this state.

(K) Each firm, partnership, association, limited liability company, or corporation through which architectural services are offered or provided in this state shall designate one or more trustees, partners, managers, members, officers, or directors as being in responsible charge of the professional architectural activities and decisions, and those designated persons shall be registered in this state. In the case of a corporation holding a certificate of authorization provided for in division (L) of this section, at least one of the persons so designated shall be a director of the corporation. Each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the architects board the name and address of each trustee, partner, manager, officer, director, member,

or shareholder, and each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the board the name and address of all persons designated as being in responsible charge of the professional architectural activities and decisions and any other information the board may require. If there is a change in any such person in the interval between filings, the change shall be filed with the board in the manner and within the time that the board determines.

(L) No corporation organized under Chapter 1701. of the Revised Code shall engage in providing architectural services in this state without obtaining a certificate of authorization from the architects board. A corporation desiring a certificate of authorization shall file with the board a copy of its articles of incorporation and a listing on the form that the board directs of the names and addresses of all trustees, officers, directors, and shareholders of the corporation, the names and addresses of any individuals providing professional services on behalf of the corporation who are registered to practice architecture in this state, and any other information the board requires. If all requirements of sections 4703.01 to 4703.19 of the Revised Code are met, the board may issue a certificate of authorization to the corporation. Except for a corporation that was granted a charter prior to August 7, 1943, to engage in providing architectural services or that was otherwise lawfully providing architectural services prior to November 15, 1982, no certificate of authorization shall be issued unless persons owning more than fifty per cent of the corporation's shares and more than fifty per cent of the interests in the corporation are professional engineers, surveyors, architects, or landscape architects, or a combination of those professions, who are registered in this or any other state. Any corporation that holds a certificate of authorization under this section and otherwise meets the requirements of sections 4703.01 to 4703.19 of the Revised Code may be organized for any purposes for which corporations may be organized under Chapter 1701. of the Revised Code and shall not be limited to the purposes of providing professional engineering, surveying, architectural, or landscape architectural services or any combination of those professions. The board, by rules adopted in accordance with Chapter 119. of the Revised Code, may require any firm, partnership, association, or limited liability company not organized under Chapter 1701. of the Revised Code that provides architectural services to obtain a certificate of authorization. If the board so requires, no firm, partnership, association, or limited liability company shall engage in providing architectural services without obtaining the certificate and complying with the rules.

(M) This section does not modify any law applicable to the relationship between a person furnishing a professional service and a person receiving that service, including liability arising out of that service.

(N) Nothing in this section restricts or limits in any manner the authority or duty of the architects board with respect to natural persons providing professional services or any law or rule pertaining to standards of professional conduct.

Sec. 4703.331. (A) A firm, partnership, association, limited liability company, or corporation may provide landscape architectural services in this state as long as the services are provided only through natural persons registered to provide those services in this state and subject to the requirements of this chapter.

(B) No firm, partnership, association, limited liability company, or corporation shall provide landscape architectural services, hold itself out to the public as providing landscape architectural services, or use a name including the word "landscape architect," "professional landscape architect,"

or "registered landscape architect" or any modification or derivation of those words, unless the firm, partnership, association, limited liability company, or corporation files all information required to be filed under this section with the Ohio landscape architects board and otherwise complies with all requirements of this chapter. A nonprofit membership corporation may use a name including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words without complying with this section.

(C) A corporation may be organized under Chapter 1701. of the Revised Code, a professional association may be organized under Chapter 1785. of the Revised Code, or a limited liability company may be formed under Chapter 1705. or 1706. of the Revised Code for the purpose of providing professional engineering, surveying, architectural, or landscape architectural services, or any combination of those services. A corporation organized under Chapter 1701. of the Revised Code for the purpose of providing those services also may be organized for any other purpose in accordance with that chapter.

(D) No firm, partnership, association, limited liability company, or corporation shall provide or offer to provide landscape architectural services in this state unless more than fifty per cent of the partners, members, or shareholders, more than fifty per cent of the directors in the case of a corporation or professional association, more than fifty per cent of the managers in the case of a limited liability company the management of which is not reserved to its members, and more than fifty per cent of the trustees in the case of an employee stock ownership plan, are professional engineers, surveyors, architects, or landscape architects or a combination of those professions, who are registered in this or any other state and who own more than fifty per cent of the interests in the firm, partnership, association, limited liability company, or corporation; unless the requirements of this division and of section 1785.02 of the Revised Code are satisfied with respect to any professional association organized under Chapter 1785. of the Revised Code; or unless the requirements of this division and of Chapter 1705. or 1706. of the Revised Code are satisfied with respect to a limited liability company formed under that chapter.

(E) Each firm, partnership, association, limited liability company, or corporation through which landscape architectural services are offered or provided in this state shall designate one or more trustees, partners, managers, members, officers, or directors as being in responsible charge of the professional landscape architectural activities and decisions, and those designated persons shall be registered in this state. Each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the board the name and address of each trustees, partner, manager, officer, director, member, or shareholder, and each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the board the name and address of all persons designated as being in responsible charge of the professional landscape architectural activities and decisions and any other information the board may require. If there is a change in any such person in the interval between filings, the change shall be filed with the board in the manner and within the time that the board determines.

(F) No corporation organized under Chapter 1701. of the Revised Code shall engage in providing landscape architectural services in this state without obtaining a certificate of authorization from the board. A corporation desiring a certificate of authorization shall file with the board a copy of its articles of incorporation and a listing on the form that the board directs of the names and addresses

of all trustees, officers, directors, and shareholders of the corporation, the names and addresses of any individuals providing professional services on behalf of the corporation who are registered to practice landscape architecture in this state, and any other information the board requires. If all requirements of this chapter are met, the board may issue a certificate of authorization to the corporation. No certificate of authorization shall be issued unless persons owning more than fifty per cent of the corporation's shares and more than fifty per cent of the interests in the corporation are professional engineers, surveyors, architects, or landscape architects, or a combination of those professions, who are registered in this or any other state. Any corporation that holds a certificate of authorization under this section and otherwise meets the requirements of this chapter may be organized for any purposes for which corporations may be organized under Chapter 1701. of the Revised Code and shall not be limited to the purposes of providing professional engineering, surveying, architectural, or landscape architectural services or any combination of those services. The board, by rules adopted in accordance with Chapter 119. of the Revised Code, may require any firm, partnership, association, or limited liability company not organized under Chapter 1701. of the Revised Code that provides landscape architectural services to obtain a certificate of authorization. If the board so requires, no firm, partnership, association, or limited liability company shall engage in providing landscape architectural services without obtaining the certificate and complying with the rules.

(G) This section does not modify any law applicable to the relationship between a person furnishing a professional service and a person receiving that service, including liability arising out of that service.

(H) Nothing in this section shall restrict or limit in any manner the authority or duty of the board with respect to natural persons providing professional services or any law or rule pertaining to standards of professional conduct.

Sec. 4715.18. (A) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, corporation, or other entity other than one of the following:

- (1) A corporation-for-profit formed under Chapter 1701. of the Revised Code;
- (2) A professional association established under Chapter 1785. of the Revised Code;
- (3) A limited liability company formed under Chapter 1705. or 1706. of the Revised Code;
- (4) A federally qualified health center, federally qualified health center look-alike, free clinic, nonprofit shelter or health care facility, or nonprofit clinic that provides health care services or dental services to indigent and uninsured persons.

(B) Any person practicing or offering to practice dentistry or dental surgery shall do so under the person's name, the name of a professional association, professional partnership, corporation-for-profit, or limited liability company that includes the person's name, or the name of an organization specified in division (A)(4) of this section.

(C) As used in this section:

- (1) "Federally qualified health center" and "federally qualified health center look-alike" have the same meanings as in section 3701.047 of the Revised Code.
- (2) "Free clinic" and "nonprofit shelter or health care facility" have the same meanings as in section 3701.071 of the Revised Code.
- (3) "Nonprofit clinic" has the same meaning as in section 3715.87 of the Revised Code.

(4) "Indigent and uninsured person" has the same meaning as in section 2305.234 of the Revised Code.

Sec. 4715.22. (A)(1) This section applies only when a licensed dental hygienist is not practicing in accordance with either of the following:

(a) A permit issued pursuant to section 4715.363 of the Revised Code authorizing practice under the oral health access supervision of a dentist;

(b) Section 4715.431 of the Revised Code.

(2) As used in this section, "health care facility" means either of the following:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) A home, as defined in section 3721.01 of the Revised Code.

(B) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter. A dental hygienist may practice in a dental office, public or private school, health care facility, dispensary, or public institution. Except as provided in divisions (C) to (E) of this section, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically present at the location where the dental hygienist is practicing.

(C) A dental hygienist may provide, for not more than fifteen consecutive business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location where the services are provided if all of the following requirements are met:

(1) The dental hygienist has at least one year and a minimum of one thousand five hundred hours of experience in the practice of dental hygiene.

(2) The dental hygienist has successfully completed a course approved by the state dental board in the identification and prevention of potential medical emergencies.

(3) The dental hygienist does not perform, while the supervising dentist is absent from the location, procedures while the patient is anesthetized, definitive root planing, definitive subgingival curettage, or other procedures identified in rules the state dental board adopts.

(4) The supervising dentist has evaluated the dental hygienist's skills.

(5) The supervising dentist examined the patient not more than one year prior to the date the dental hygienist provides the dental hygiene services to the patient.

(6) The dental hygienist complies with written protocols or written standing orders that the supervising dentist establishes, including those established for emergencies.

(7) The supervising dentist completed and evaluated a medical and dental history of the patient not more than one year prior to the date the dental hygienist provides dental hygiene services to the patient and, except when the dental hygiene services are provided in a health care facility, the supervising dentist determines that the patient is in a medically stable condition.

(8) If the dental hygiene services are provided in a health care facility, a doctor of medicine and surgery or osteopathic medicine and surgery licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code is present in the health care facility when the services are provided.

(9) In advance of the appointment for dental hygiene services, the patient is notified that the supervising dentist will be absent from the location and that the dental hygienist cannot diagnose the patient's dental health care status.

- (10) The dental hygienist is employed by, or under contract with, one of the following:
- (a) The supervising dentist;
 - (b) A dentist licensed under this chapter who is one of the following:
 - (i) The employer of the supervising dentist;
 - (ii) A shareholder in a professional association formed under Chapter 1785. of the Revised Code of which the supervising dentist is a shareholder;
 - (iii) A member or manager of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code of which the supervising dentist is a member or manager;
 - (iv) A shareholder in a corporation formed under division (B) of section 1701.03 of the Revised Code of which the supervising dentist is a shareholder;
 - (v) A partner or employee of a partnership or a limited liability partnership formed under Chapter 1775. or 1776. of the Revised Code of which the supervising dentist is a partner or employee.
 - (c) A government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs the government entity administers.
- (D) A dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location where the services are provided if the services are provided as part of a dental hygiene program that is approved by the state dental board and all of the following requirements are met:
- (1) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; a national, state, district, or local dental association; or any other public or private entity recognized by the state dental board.
 - (2) The supervising dentist is employed by or a volunteer for, and the patients are referred by, the entity through which the program is operated.
 - (3)(a) Except as provided in division (D)(3)(b) of this section, the services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.
 - (b) The requirement in division (D)(3)(a) of this section does not apply when the only services to be provided by the dental hygienist are the placement of pit and fissure sealants and the application of fluoride varnish.
- (E) A dental hygienist may do any of the following when the supervising dentist is not physically present at the location where the services are provided, regardless of whether the dentist has examined the patient, if the dental hygienist is employed by, or under contract with, the supervising dentist or another person or government entity specified in division (C)(10)(b) or (c) of this section:
- (1) Apply fluoride varnish;
 - (2) Apply desensitizing agents, excluding silver diamine fluoride;
 - (3) Apply disclosing solutions;
 - (4) Apply pit and fissure sealants;
 - (5) Recement temporary crowns or recement crowns with temporary cement;

- (6) Conduct caries susceptibility testing;
- (7) Provide instruction on oral hygiene home care, including the use of toothbrushes and dental floss;
- (8) Discuss general nonmedical nutrition information for the purpose of maintaining good oral health.

As used in division (E)(8) of this section, "general nonmedical nutrition information" means information on the following: principles of good nutrition and food preparation, food to be included in the normal daily diet, the essential nutrients needed by the body, recommended amounts of the essential nutrients, the actions of nutrients on the body, the effects of deficiencies or excesses of nutrients, or food and supplements that are good sources of essential nutrients.

(F) No person shall do either of the following:

- (1) Practice dental hygiene in a manner that is separate or otherwise independent from the dental practice of a supervising dentist;
- (2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.

(G) The state dental board shall adopt rules under division (C) of section 4715.03 of the Revised Code identifying procedures a dental hygienist may not perform when practicing in the absence of the supervising dentist pursuant to division (C) or (D) of this section.

Sec. 4715.365. (A) A dentist who holds a current, valid oral health access supervision permit issued under section 4715.362 of the Revised Code may authorize a dental hygienist who holds a current, valid permit issued under section 4715.363 of the Revised Code to perform dental hygiene services at a facility when no dentist is physically present if all of the following conditions are met:

(1) The authorizing dentist's authorization is in writing and includes, at a minimum, all of the following:

- (a) The authorizing dentist's name and permit number;
- (b) The dental hygienist's name and permit number;
- (c) The patient's name;
- (d) The name and address of the location where the dental hygiene services are to be provided;
- (e) The date of authorization;
- (f) A statement, signed by the dental hygienist, that the hygienist agrees to comply with section 4715.366 of the Revised Code.

(2) The authorizing dentist has personally evaluated the dental hygienist's skills prior to authorizing the dental hygienist to provide the dental hygiene services.

(3) Prior to authorizing the dental hygienist to perform the dental hygiene services, the patient's medical and dental history is made available to the authorizing dentist and the authorizing dentist reviews and evaluates the history and determines that the patient may safely receive dental hygiene services.

(4) Immediately prior to the provision of dental hygiene services, the patient or patient's representative verifies, by the signature or mark of the patient or representative, that no medically significant changes to the patient's medical or dental history have occurred since the authorizing dentist most recently reviewed and evaluated the history and determined that the patient could safely

receive dental hygiene services. The signature or mark may be provided through reasonable accommodation, including the use of assistive technology or augmentative devices.

(5) Prior to receiving dental hygiene services, the patient and the operator of the facility where the dental hygiene services are to be provided are notified that no dentist will be present at the location and that the dental hygienist is prohibited from doing either of the following:

(a) Diagnosing the patient's oral health care status;

(b) Providing dental hygiene services to the same patient on a subsequent occasion until the patient has received a clinical evaluation performed by a dentist, except in instances described in division (D)(2) of this section.

(6) The dental hygienist is employed by, or under contract with, one of the following:

(a) The authorizing dentist;

(b) A dentist who is any of the following:

(i) The authorizing dentist's employer;

(ii) A shareholder in a professional association, formed under Chapter 1785. of the Revised Code, of which the authorizing dentist is a shareholder;

(iii) A member or manager of a limited liability company, formed under Chapter 1705. or 1706. of the Revised Code, of which the authorizing dentist is a member or manager;

(iv) A shareholder in a corporation, formed under division (B) of section 1701.03 of the Revised Code, of which the authorizing dentist is a shareholder;

(v) A partner or employee of a partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee;

(vi) A partner or employee of a limited liability partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee.

(c) A government entity that employs the dental hygienist to provide dental hygiene services;

(d) An entity that employs the authorizing dentist so long as the dentist's practice is not in violation of section 4715.18 of the Revised Code.

(7) If the patient to whom the services are to be provided previously received dental hygiene services under this section, there is written evidence that the patient received a clinical evaluation after the most recent provision of those services.

(B) No dentist shall authorize a dental hygienist to perform, and no dental hygienist shall perform, dental hygiene services on a patient under this section unless all of the conditions in division (A) of this section are met.

(C) If a patient or patient's representative indicates, under division (A)(4) of this section, that a medically significant change has occurred in the patient's medical or dental history since the authorizing dentist's most recent review and evaluation of the medical and dental history required by division (A)(3) of this section, no dental hygiene services shall be provided under this section until the authorizing dentist completes another review and evaluation of the patient's medical and dental history. The authorizing dentist may complete the subsequent review and evaluation of the patient's medical and dental history by telephone, facsimile, electronic mail, video, or any other means of electronic communication.

(D)(1) Except as provided in division (D)(2) of this section, no dentist shall authorize a dental hygienist to provide, and no dental hygienist shall provide, dental hygiene services under this section

to the same patient on a subsequent occasion until the patient has received a clinical evaluation performed by a dentist.

(2) Division (D)(1) of this section does not apply if the patient requires multiple visits to complete one or more procedures that could not be completed during the visit in which dental hygiene services were commenced. If the patient requires multiple visits to complete the one or more procedures that could not be completed during the visit in which dental hygiene services were commenced, the one or more procedures shall be completed not later than eight weeks after the visit in which the dental hygiene services were commenced.

(E) No authorizing dentist shall authorize a dental hygienist to diagnose a patient's oral health care status. No dental hygienist practicing under a permit issued under section 4715.363 of the Revised Code to practice under the oral health access supervision of a dentist shall diagnose a patient's oral health care status.

Sec. 4715.431. (A) If all of the conditions in division (B) of this section are met, an authorizing dentist may do either of the following under a teledentistry permit without examining a patient in person:

(1) Authorize a dental hygienist or expanded function dental auxiliary to perform services as set forth in division (E) or (F) of this section, as applicable, at a location where no dentist is physically present;

(2) Prescribe a drug that is not a controlled substance for a patient who is at a location where no dentist is physically present.

(B) The conditions that must be met under division (A) of this section are the following:

(1) The authorizing dentist must prepare a written authorization that includes all of the following:

(a) The authorizing dentist's name and permit number;

(b) The name of the dental hygienist or expanded function dental auxiliary;

(c) The patient's name;

(d) The name and address of the location where the services are to be provided;

(e) The date of the authorization;

(f) A statement signed by the dental hygienist or expanded function dental auxiliary agreeing to comply with the written protocols or written standing orders the authorizing dentist establishes, including those for dealing with emergencies;

(g) Any other information the dentist considers appropriate.

(2) Before any dental services are provided all of the following must occur:

(a) The patient is notified that an authorizing dentist will perform a clinical evaluation through teledentistry.

(b) The patient is given an explanation of alternatives to, and the capabilities and limitations of, teledentistry.

(c)(i) Subject to division (B)(2)(c)(ii) of this section, the patient consents to the provision of services through teledentistry and the consent is documented in the patient's record.

(ii) If the services to be provided are the placement of interim therapeutic restorations or the application of silver diamine fluoride, the requirements for informed consent in rules adopted under division (C) of section 4715.436 of the Revised Code have been met.

(3) The authorizing dentist establishes the patient's identity and physical location through synchronous, real-time communication.

(4) The authorizing dentist provides dental services through teledentistry only as is appropriate for the patient and in accordance with appropriate standards of care.

(5) The authorizing dentist establishes a diagnosis and treatment plan and documents it in the patient's record.

(6) The authorizing dentist specifies the services the dental hygienist or expanded function dental auxiliary is authorized to provide to the patient.

(7) The dental hygienist or expanded function dental auxiliary is employed by, or under contract with, one of the following:

(a) The authorizing dentist;

(b) A dentist who is any of the following:

(i) The authorizing dentist's employer;

(ii) A shareholder in a professional association formed under Chapter 1785. of the Revised Code of which the authorizing dentist is a shareholder;

(iii) A member or manager of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code of which the authorizing dentist is a member or manager;

(iv) A shareholder in a corporation formed under division (B) of section 1701.03 of the Revised Code of which the authorizing dentist is a shareholder;

(v) A partner or employee of a partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee;

(vi) A partner or employee of a limited liability partnership, formed under Chapter 1775. of the Revised Code, of which the authorizing dentist is a partner or employee.

(C) A dentist retains responsibility for ensuring the safety and quality of services provided to patients through teledentistry. Services delivered through teledentistry must be consistent with in-person services. Persons involved with providing services through teledentistry must abide by laws addressing the privacy and security of the patient's dental and medical information.

(D) An authorizing dentist may not have more than a total of three dental hygienists and expanded ~~dental~~-function dental auxiliaries working under the dentist's authorization pursuant to this section at any time.

(E)(1) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may provide dental hygiene services at a location where no dentist is physically present if all of the following requirements are met:

(a) The dental hygienist has at least one year and a minimum of one thousand five hundred hours of experience in the practice of dental hygiene.

(b) The dental hygienist has completed a course described in division (C)(2) of section 4715.22 of the Revised Code on the identification and prevention of potential medical emergencies.

(c) The authorizing dentist has evaluated the dental hygienist's skills.

(d) The dental hygienist complies with written protocols or written standing orders established by the authorizing dentist, including written protocols established for emergencies.

(2) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may place interim therapeutic restorations when a dentist is not physically present at the

location where the dental hygienist is practicing if the requirements of division (E)(1) of this section are met and the dental hygienist has successfully completed a state dental board-approved course in the proper placement of interim therapeutic restorations.

(3) If authorized to do so by an authorizing dentist in accordance with this section, a dental hygienist may apply silver diamine fluoride when a dentist is not physically present at the location where the dental hygienist is practicing if the requirements of division (E)(1) of this section are met and the dental hygienist has successfully completed a state dental board-approved course in the application of silver diamine fluoride.

(F)(1) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary may provide the services listed in divisions (A)(2) to (10) of section 4715.64 of the Revised Code, and any additional procedures authorized pursuant to division (A)(11) of that section, when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing if all of the following requirements are met:

(a) The expanded function dental auxiliary has at least one year and a minimum of one thousand five hundred hours of experience practicing as an expanded function dental auxiliary.

(b) The expanded function dental auxiliary has completed a course described in division (C)(2) of section 4715.64 of the Revised Code on the identification and prevention of potential medical emergencies.

(c) The authorizing dentist has evaluated the expanded function dental auxiliary's skills.

(d) The expanded function dental auxiliary complies with written protocols or written standing orders established by the authorizing dentist, including written protocols for emergencies.

(2) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and has successfully completed a state dental board-approved course in the proper placement of interim therapeutic restorations may place interim therapeutic restorations when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

(3) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and has successfully completed a state dental board-approved course in the application of silver diamine fluoride may apply silver diamine fluoride when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

(4) If authorized to do so by an authorizing dentist in accordance with this section, an expanded function dental auxiliary who meets the requirements of division (F)(1) of this section and holds a current, valid dental x-ray machine operator certificate issued by the board pursuant to section 4715.53 of the Revised Code may perform, for the purpose of contributing to the provision of dental care to a dental patient, standard, diagnostic radiologic procedures when a dentist is not physically present at the location where the expanded function dental auxiliary is practicing.

Sec. 4717.06. (A)(1) A licensed funeral director who desires to obtain a license to operate a funeral home, a licensed embalmer who desires to obtain a license to operate an embalming facility, or a holder of a crematory operator permit who desires to obtain a license to operate a crematory facility shall apply to the board of embalmers and funeral directors on a form prescribed by the board. The application shall include the initial license application fee set forth in section 4717.07 of

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

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

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

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

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

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

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

(C)(1) The board shall issue a license to operate an embalming facility only to a licensed embalmer who is actually in charge of and ultimately responsible for the embalming facility. The

board shall issue the license only for the address at which the embalming facility is physically located and operated. The license shall be displayed in a conspicuous place within the facility. The name of the embalmer to whom the embalming facility license has been issued shall be conspicuously displayed on the outside or inside of the primary entrance to the embalming facility.

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

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

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

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

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

Sec. 4723.16. (A) An individual whom the board of nursing licenses or otherwise legally authorizes to engage in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse may render the professional services of a registered, advanced practice registered, or licensed practical nurse within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a registered, advanced practice registered, or licensed practical nurse through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the board of nursing adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered, advanced practice registered, or licensed practical nurses who are authorized to practice nursing as registered nurses, advanced practice registered nurses, or licensed practical nurses under this chapter;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are licensed to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a nurse that prohibits a registered, advanced practice registered, or licensed practical nurse from engaging in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse.

Sec. 4725.33. (A) An individual whom the state vision professionals board licenses to engage in the practice of optometry may render the professional services of an optometrist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not

preclude an optometrist from rendering professional services as an optometrist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state vision professionals board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry.

Sec. 4729.161. (A) An individual registered with the state board of pharmacy to engage in the practice of pharmacy may render the professional services of a pharmacist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional

association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a pharmacist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of pharmacy adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a pharmacist that prohibits a pharmacist from engaging in the practice of pharmacy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of pharmacy.

Sec. 4729.541. (A) Except as provided in divisions (B) to (D) of this section, all of the following are exempt from licensure as a terminal distributor of dangerous drugs:

(1) A licensed health professional authorized to prescribe drugs;

(2) A business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code if the entity has a sole shareholder who is a prescriber and is authorized to provide the professional services being offered by the entity;

(3) A business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership or a limited liability partnership formed under Chapter 1775. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code, if, to be a shareholder, member, or partner, an individual is required to be licensed, certified, or otherwise legally authorized under Title XLVII of the Revised Code to perform the professional service provided by the entity and each such individual is a prescriber;

(4) An individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession;

(5) An individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the state board of pharmacy under rules adopted by the board, but only with respect to medical oxygen that will be used for the purpose of emergency care or treatment at the scene of a diving emergency;

(6) With respect to epinephrine autoinjectors that may be possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code, any of the following: the board of education of a city, local, exempted village, or joint vocational school district; a chartered or nonchartered nonpublic school; a community school established under Chapter 3314. of the Revised Code; a STEM school established under Chapter 3326. of the Revised Code; or a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(7) With respect to epinephrine autoinjectors that may be possessed under section 5101.76 of the Revised Code, any of the following: a residential camp, as defined in section 2151.011 of the Revised Code; a child day camp, as defined in section 5104.01 of the Revised Code; or a child day camp operated by any county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code;

(8) With respect to epinephrine autoinjectors that may be possessed under Chapter 3728. of the Revised Code, a qualified entity, as defined in section 3728.01 of the Revised Code;

(9) With respect to inhalers that may be possessed under section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of the Revised Code, any of the following: the board of education of a city, local, exempted village, or joint vocational school district; a chartered or nonchartered nonpublic school; a community school established under Chapter 3314. of the Revised Code; a STEM school established under Chapter 3326. of the Revised Code; or a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(10) With respect to inhalers that may be possessed under section 5101.77 of the Revised Code, any of the following: a residential camp, as defined in section 2151.011 of the Revised Code; a child day camp, as defined in section 5104.01 of the Revised Code; or a child day camp operated by any county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code;

(11) With respect to naloxone that may be possessed under section 2925.61 of the Revised Code, a law enforcement agency and its peace officers;

(12) With respect to naloxone that may be possessed under section 4729.514 of the Revised Code, a service entity, as defined in that section;

(13) A facility that is owned and operated by the United States department of defense, the United States department of veterans affairs, or any other federal agency.

(B) If a person described in division (A) of this section is a pain management clinic or is operating a pain management clinic, the person shall hold a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code.

(C) If a person described in division (A) of this section is operating a facility, clinic, or other location described in division (B) of section 4729.553 of the Revised Code that must hold a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification, the person shall hold a license with that classification.

(D) Any of the persons described in divisions (A)(1) to (12) of this section shall hold a license as a terminal distributor of dangerous drugs in order to possess, have custody or control of, and distribute any of the following:

(1) Dangerous drugs that are compounded or used for the purpose of compounding;

(2) A schedule I, II, III, IV, or V controlled substance, as defined in section 3719.01 of the Revised Code.

Sec. 4731.226. (A)(1) An individual whom the state medical board licenses, certificates, or otherwise legally authorizes to engage in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery may render the professional services of a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. Division (A)(1) of this section does not preclude an individual of that nature from rendering professional services as a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(2) An individual whom the state medical board authorizes to engage in the practice of mechanotherapy may render the professional services of a mechanotherapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional

association formed under Chapter 1785. of the Revised Code. Division (A)(2) of this section does not preclude an individual of that nature from rendering professional services as a mechanotherapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under this chapter;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

(C) Division (B) of this section shall apply notwithstanding a provision of a code of ethics described in division (B)(18) of section 4731.22 of the Revised Code that prohibits either of the following:

(1) A doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery from engaging in the doctor's authorized practice in combination with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(2) A mechanotherapist from engaging in the practice of mechanotherapy in combination

with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of mechanotherapy.

Sec. 4731.228. (A) As used in this section:

(1) "Federally qualified health center" has the same meaning as in section 3701.047 of the Revised Code.

(2) "Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

(3) "Health care entity" means any of the following that employs a physician to provide physician services:

(a) A hospital registered with the department of health under section 3701.07 of the Revised Code;

(b) A corporation formed under division (B) of section 1701.03 of the Revised Code;

(c) A corporation formed under Chapter 1702. of the Revised Code;

(d) A limited liability company formed under Chapter 1705. or 1706. of the Revised Code;

(e) A health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code;

(f) A partnership;

(g) A professional association formed under Chapter 1785. of the Revised Code.

(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(5) "Physician services" means direct patient care services provided by a physician.

(6) "Termination" means the end of a physician's employment with a health care entity for any reason.

(B) This section applies when a physician's employment with a health care entity to provide physician services is terminated for any reason, unless the physician continues to provide medical services for patients of the health care entity on an independent contractor basis.

(C)(1) Except as provided in division (C)(2) of this section, a health care entity shall send notice of the termination of a physician's employment to each patient who received physician services from the physician in the two-year period immediately preceding the date of employment termination. Only patients of the health care entity who received services from the physician are to receive the notice.

(2) If the health care entity provides to the physician a list of patients treated and patient contact information, the health care entity may require the physician to send the notice required by this section.

(D) The notice provided under division (C) of this section shall be provided not later than the date of termination or thirty days after the health care entity has actual knowledge of termination or resignation of the physician, whichever is later. The notice shall be provided in accordance with rules adopted by the state medical board under section 4731.05 of the Revised Code. The notice shall

include at least all of the following:

(1) A notice to the patient that the physician will no longer be practicing medicine as an employee of the health care entity;

(2) Except in situations in which the health care entity has a good faith concern that the physician's conduct or the medical care provided by the physician would jeopardize the health and safety of patients, the physician's name and, if known by the health care entity, information provided by the physician that the patient may use to contact the physician;

(3) The date on which the physician ceased or will cease to practice as an employee of the health care entity;

(4) Contact information for an alternative physician or physicians employed by the health care entity or contact information for a group practice that can provide care for the patient;

(5) Contact information that enables the patient to obtain information on the patient's medical records.

(E) The requirements of this section do not apply to any of the following:

(1) A physician rendering services to a patient on an episodic basis or in an emergency department or urgent care center, when it should not be reasonably expected that related medical services will be rendered by the physician to the patient in the future;

(2) A medical director or other physician providing services in a similar capacity to a medical director to patients through a hospice care program licensed pursuant to section 3712.04 of the Revised Code.

(3) Medical residents, interns, and fellows who work in hospitals, health systems, federally qualified health centers, and federally qualified health center look-alikes as part of their medical education and training.

(4) A physician providing services to a patient through a community mental health services provider certified by the director of mental health and addiction services under section 5119.36 of the Revised Code or a community addiction services provider certified by the director under that section.

(5) A physician providing services to a patient through a federally qualified health center or a federally qualified health center look-alike.

Sec. 4732.28. (A) An individual whom the state board of psychology licenses, certificates, or otherwise legally authorizes to engage in the practice of psychology may render the professional services of a psychologist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a psychologist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of psychology adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

- (1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;
- (2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;
- (3) Psychologists who are authorized to practice psychology under this chapter;
- (4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;
- (5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;
- (6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;
- (7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;
- (8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;
- (9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;
- (10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a psychologist that prohibits a psychologist from engaging in the practice of psychology in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of psychology.

Sec. 4733.16. (A) A firm, partnership, association, limited liability company, or corporation may provide professional engineering or professional surveying services in this state as long as the services are provided only through natural persons registered to provide those services in the state, subject to the exemptions in sections 4733.17 and 4733.18 of the Revised Code and subject otherwise to the requirements of this chapter.

(B) No firm, partnership, association, limited liability company, or corporation, except a corporation that was granted a charter prior to August 7, 1943, to engage in providing professional engineering or professional surveying services in this state or that was otherwise lawfully providing engineering services in this state prior to November 15, 1982, shall engage in providing professional engineering or professional surveying services, hold itself out to the public as being engaged in providing professional engineering or professional surveying services, or use a name including one or more of the words "engineer," "engineering," "surveyor," or "surveying" or any modification or derivation of those words, unless the firm, partnership, association, limited liability company, or

corporation obtains a certificate of authorization from the state board of registration for professional engineers and surveyors and files all information required to be filed under this section with the state board of registration for professional engineers and surveyors and otherwise complies with all requirements of this chapter. A nonprofit membership corporation may use a name including one or more of the words "engineer," "engineering," "surveyor," or "surveying" or any modification or derivation of those words without complying with this section.

(C) A corporation may be organized under Chapter 1701. of the Revised Code, a professional association may be organized under Chapter 1785. of the Revised Code, or a limited liability company may be formed under Chapter 1705. or 1706. of the Revised Code for the purpose of providing professional engineering, professional surveying, architectural, or landscape architectural services or any combination of those services. A corporation organized under Chapter 1701. of the Revised Code for the purpose of providing those services also may be organized for any other purpose in accordance with that chapter.

(D) Each firm, partnership, association, limited liability company, or corporation through which professional engineering or professional surveying services are offered or provided in this state shall designate one or more full-time partners, managers, members, officers, or directors as being responsible for and in responsible charge of the professional engineering or professional surveying activities and decisions, and those designated persons shall be registered in this state. Each firm, partnership, association, limited liability company, or corporation shall annually file with the state board of registration for professional engineers and surveyors the name and address of all owners and all persons designated as being in responsible charge of the professional engineering or professional surveying activities and decisions and any other information the board may require.

(E) The state board of registration for professional engineers and surveyors shall issue a certificate of authorization to each firm, partnership, association, limited liability company, or corporation that satisfies the requirements of this chapter, including providing information that the board may require pursuant to division (D) of this section.

(F) This section does not modify any law applicable to the relationship between a person furnishing a professional service and a person receiving that service, including liability arising out of that service.

(G) Nothing in this section shall restrict or limit in any manner the authority or duty of the state board of registration for professional engineers and surveyors with respect to natural persons providing professional services or any law or rule pertaining to standards of professional conduct.

(H) Corporations, partnerships, associations, limited liability companies, or firms organized under the laws of another state or country wishing to provide professional engineering or professional surveying services shall obtain a certificate of authorization and meet the applicable requirements of this section.

Sec. 4734.17. (A) An individual whom the state chiropractic board licenses to engage in the practice of chiropractic or certifies to practice acupuncture may render the professional services of a chiropractor or chiropractor certified to practice acupuncture within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude a

chiropractor from rendering professional services as a chiropractor or chiropractor certified to practice acupuncture through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state chiropractic board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry, under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under this chapter;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of any code of ethics established or adopted under section 4734.16 of the Revised Code that prohibits an individual from engaging in the practice of chiropractic or acupuncture in combination with an individual who is licensed, certificated, or otherwise authorized for the practice of optometry, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed under this chapter to engage in the practice of chiropractic.

Sec. 4755.111. (A) An individual whom the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board licenses, certificates, or otherwise legally authorizes to engage in the practice of occupational therapy may render the professional

services of an occupational therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as an occupational therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with sections 4755.04 to 4755.13 of the Revised Code, another chapter of the Revised Code, or rules of the Ohio occupational therapy, physical therapy, and athletic trainers board adopted pursuant to sections 4755.04 to 4755.13 of the Revised Code.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an occupational therapist that prohibits an occupational therapist from engaging in the practice of occupational therapy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy but who is not also licensed, certificated, or otherwise legally authorized

to engage in the practice of occupational therapy.

Sec. 4755.471. (A) An individual whom the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board licenses, certificates, or otherwise legally authorizes to engage in the practice of physical therapy may render the professional services of a physical therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a physical therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with sections 4755.40 to 4755.53 of the Revised Code, another chapter of the Revised Code, or rules of the Ohio occupational therapy, physical therapy, and athletic trainers board adopted pursuant to sections 4755.40 to 4755.53 of the Revised Code.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a physical therapist that prohibits a physical therapist from engaging in the practice of physical therapy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice

optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, or marriage and family therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of physical therapy.

Sec. 4757.37. (A) An individual whom the counselor, social worker, and marriage and family therapist board licenses, certificates, or otherwise legally authorizes to engage in the practice of professional counseling, social work, or marriage and family therapy may render the professional services of a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. or 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude such an individual from rendering professional services as a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the counselor, social worker, and marriage and family therapist board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised

Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, or marriage and family therapists who are authorized for their respective practices under this chapter.

This division applies notwithstanding a provision of a code of ethics applicable to an individual who is a licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist that prohibits the individual from engaging in the individual's practice in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of professional counseling, social work, or marriage and family therapy.

Sec. 5701.14. For purposes of Title LVII of the Revised Code:

(A) In order to determine a limited liability company's nonprofit status, an entity is operating with a nonprofit purpose under section 1705.02 of the Revised Code or carrying on any nonprofit activity under section 1706.05 of the Revised Code if that entity is organized other than for the pecuniary gain or profit of, and its net earnings or any part of its net earnings are not distributable to, its members, its directors, its officers, or other private persons, except that the payment of reasonable compensation for services rendered, payments and distributions in furtherance of its nonprofit purpose, and the distribution of assets on dissolution permitted by section 1702.49 of the Revised Code are not pecuniary gain or profit or distribution of net earnings. In no event shall payments and distributions in furtherance of an entity's nonprofit purpose deprive the entity of its nonprofit status as long as all of the members of that entity are operating with a nonprofit purpose.

(B) A single member limited liability company that operates with a nonprofit purpose, as described in division (A) of this section, shall be treated as part of the same legal entity as its nonprofit member, and all assets and liabilities of that single member limited liability company shall be considered to be that of the nonprofit member. Filings or applications for exemptions or other tax purposes may be made either by the single member limited liability company or its nonprofit member.

Sec. 5715.19. (A) As used in this section, "member" has the same meaning as in section 1705.01 or 1706.01 of the Revised Code; as applicable, and "internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

(1) Subject to division (A)(2) of this section, a complaint against any of the following determinations for the current tax year shall be filed with the county auditor on or before the thirty-first day of March of the ensuing tax year or the date of closing of the collection for the first half of real and public utility property taxes for the current tax year, whichever is later:

- (a) Any classification made under section 5713.041 of the Revised Code;
- (b) Any determination made under section 5713.32 or 5713.35 of the Revised Code;
- (c) Any recoupment charge levied under section 5713.35 of the Revised Code;
- (d) The determination of the total valuation or assessment of any parcel that appears on the

tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(e) The determination of the total valuation of any parcel that appears on the agricultural land tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(f) Any determination made under division (A) of section 319.302 of the Revised Code.

If such a complaint is filed by mail or certified mail, the date of the United States postmark placed on the envelope or sender's receipt by the postal service shall be treated as the date of filing. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the filing date.

Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. The county auditor shall present to the county board of revision all complaints filed with the auditor.

(2) As used in division (A)(2) of this section, "interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again.

No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:

(a) The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;

(b) The property lost value due to some casualty;

(c) Substantial improvement was added to the property;

(d) An increase or decrease of at least fifteen per cent in the property's occupancy has had a

substantial economic impact on the property.

(3) If a county board of revision, the board of tax appeals, or any court dismisses a complaint filed under this section or section 5715.13 of the Revised Code for the reason that the act of filing the complaint was the unauthorized practice of law or the person filing the complaint was engaged in the unauthorized practice of law, the party affected by a decrease in valuation or the party's agent, or the person owning taxable real property in the county or in a taxing district with territory in the county, may refile the complaint, notwithstanding division (A)(2) of this section.

(4)(a) No complaint filed under this section or section 5715.13 of the Revised Code shall be dismissed for the reason that the complaint fails to accurately identify the owner of the property that is the subject of the complaint.

(b) If a complaint fails to accurately identify the owner of the property that is the subject of the complaint, the board of revision shall exercise due diligence to ensure the correct property owner is notified as required by divisions (B) and (C) of this section.

(5) Notwithstanding division (A)(2) of this section, a person, board, or officer may file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period if the person, board, or officer withdrew the complaint before the complaint was heard by the board.

(B) Within thirty days after the last date such complaints may be filed, the auditor shall give notice of each complaint in which the stated amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination is at least seventeen thousand five hundred dollars to each property owner whose property is the subject of the complaint, if the complaint was not filed by the owner or the owner's spouse, and to each board of education whose school district may be affected by the complaint. Within thirty days after receiving such notice, a board of education; a property owner; the owner's spouse; an individual who is retained by such an owner and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; or, if the property owner is a firm, company, association, partnership, limited liability company, corporation, or trust, an officer, a salaried employee, a partner, a member, or trustee of that property owner, may file a complaint in support of or objecting to the amount of alleged overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination stated in a previously filed complaint or objecting to the current valuation. Upon the filing of a complaint under this division, the board of education or the property owner shall be made a party to the action.

(C) Each board of revision shall notify any complainant and also the property owner, if the property owner's address is known, when a complaint is filed by one other than the property owner, not less than ten days prior to the hearing, either by certified mail or, if the board has record of an internet identifier of record associated with the owner, by ordinary mail and by that internet identifier of record of the time and place the same will be heard. The board of revision shall hear and render its

decision on a complaint within ninety days after the filing thereof with the board, except that if a complaint is filed within thirty days after receiving notice from the auditor as provided in division (B) of this section, the board shall hear and render its decision within ninety days after such filing.

(D) The determination of any such complaint shall relate back to the date when the lien for taxes or recoupment charges for the current year attached or the date as of which liability for such year was determined. Liability for taxes and recoupment charges for such year and each succeeding year until the complaint is finally determined and for any penalty and interest for nonpayment thereof within the time required by law shall be based upon the determination, valuation, or assessment as finally determined. Each complaint shall state the amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect classification or determination upon which the complaint is based. The treasurer shall accept any amount tendered as taxes or recoupment charge upon property concerning which a complaint is then pending, computed upon the claimed valuation as set forth in the complaint. If a complaint filed under this section for the current year is not determined by the board within the time prescribed for such determination, the complaint and any proceedings in relation thereto shall be continued by the board as a valid complaint for any ensuing year until such complaint is finally determined by the board or upon any appeal from a decision of the board. In such case, the original complaint shall continue in effect without further filing by the original taxpayer, the original taxpayer's assignee, or any other person or entity authorized to file a complaint under this section.

(E) If a taxpayer files a complaint as to the classification, valuation, assessment, or any determination affecting the taxpayer's own property and tenders less than the full amount of taxes or recoupment charges as finally determined, an interest charge shall accrue as follows:

(1) If the amount finally determined is less than the amount billed but more than the amount tendered, the taxpayer shall pay interest at the rate per annum prescribed by section 5703.47 of the Revised Code, computed from the date that the taxes were due on the difference between the amount finally determined and the amount tendered. This interest charge shall be in lieu of any penalty or interest charge under section 323.121 of the Revised Code unless the taxpayer failed to file a complaint and tender an amount as taxes or recoupment charges within the time required by this section, in which case section 323.121 of the Revised Code applies.

(2) If the amount of taxes finally determined is equal to or greater than the amount billed and more than the amount tendered, the taxpayer shall pay interest at the rate prescribed by section 5703.47 of the Revised Code from the date the taxes were due on the difference between the amount finally determined and the amount tendered, such interest to be in lieu of any interest charge but in addition to any penalty prescribed by section 323.121 of the Revised Code.

(F) Upon request of a complainant, the tax commissioner shall determine the common level of assessment of real property in the county for the year stated in the request that is not valued under section 5713.31 of the Revised Code, which common level of assessment shall be expressed as a percentage of true value and the common level of assessment of lands valued under such section, which common level of assessment shall also be expressed as a percentage of the current agricultural use value of such lands. Such determination shall be made on the basis of the most recent available sales ratio studies of the commissioner and such other factual data as the commissioner deems pertinent.

(G) A complainant shall provide to the board of revision all information or evidence within the complainant's knowledge or possession that affects the real property that is the subject of the complaint. A complainant who fails to provide such information or evidence is precluded from introducing it on appeal to the board of tax appeals or the court of common pleas, except that the board of tax appeals or court may admit and consider the evidence if the complainant shows good cause for the complainant's failure to provide the information or evidence to the board of revision.

(H) In case of the pendency of any proceeding in court based upon an alleged excessive, discriminatory, or illegal valuation or incorrect classification or determination, the taxpayer may tender to the treasurer an amount as taxes upon property computed upon the claimed valuation as set forth in the complaint to the court. The treasurer may accept the tender. If the tender is not accepted, no penalty shall be assessed because of the nonpayment of the full taxes assessed.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully

utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the twenty consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on

the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and

possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

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

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

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under

division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

- (i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;
- (ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;
- (iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;
- (iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

- (i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;
- (ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to

329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (D) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(R) "Nonbusiness income" means all income other than business income.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state no later than June 30, 2006. No credit shall be allowed under this section for taxable years ending on or after July 1, 2005. The elimination of the credit for those taxable years includes the elimination of any remaining one-sevenths of credit amounts for which a portion was allowed for prior taxable years and the elimination of any credit carry-forward, but the purchases on which the credits were based remain subject to grants under section 122.173 of the Revised Code for those remaining one-seventh amounts or carry-forward amounts.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the credit amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a credit for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those credits each year.

(4) The taxpayer shall claim one-seventh of the credit amount for the tax year immediately following the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing tax years. Except for carried-forward amounts, the taxpayer is not allowed any credit amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another

taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward credit amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit on a form prescribed by the department of development. The department of development shall inform the tax commissioner of the notice of intent to claim the credit. No credit may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax credit for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31 or 5733.311 of the Revised Code shall not be considered new manufacturing

machinery and equipment for purposes of the credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the credit available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The credit shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any credit attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

Sec. 5733.42. (A) As used in this section:

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, or personal enrichment training programs, or training programs intended exclusively for personal career development.

(2) "Eligible employee" means an individual who is employed in this state by a taxpayer and has been so employed by the same taxpayer for at least one hundred eighty consecutive days before the day an application for the credit is filed under this section. "Eligible employee" does not include any employee for which a credit is claimed pursuant to division (A)(5) of section 5709.65 of the Revised Code for all or any part of the same year, an employee who is not a full-time employee, or executive or managerial personnel, except for the immediate supervisors of nonexecutive, nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries, materials and supplies, textbooks and manuals, videotapes, and other instructional media and training equipment used exclusively for the

purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted exclusively to an eligible training program during normal paid working hours.

(4) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours per week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(5) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of another state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for taxpayers for which a tax credit certificate is issued under division (C) of this section. The credit may be claimed for tax years 2004, 2005, 2006, 2007, and 2008. The amount of the credit for tax year 2004 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 1999, 2000, and 2001, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2005 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2002, 2003, and 2004, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2006 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2003, 2004, and 2005, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2007 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2004, 2005, and 2006, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2008 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2005, 2006, and 2007, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years.

The credit claimed by a taxpayer each tax year shall not exceed one hundred thousand dollars.

(C) A taxpayer who proposes to conduct an eligible training program may apply to the director of job and family services for a tax credit certificate under this section. The taxpayer may apply for such a certificate for tax years 2004, 2005, 2006, 2007, and 2008 subject to division (L) of this section. The director shall prescribe the form of the application, which shall require a detailed description of the proposed training program. The director may require applicants to remit an application fee with each application filed with the director. The fee shall not exceed the reasonable and necessary expenses incurred by the director in receiving, reviewing, and approving such applications and issuing tax credit certificates. Proceeds from fees shall be used solely for the purpose of receiving, reviewing, and approving such applications and issuing such certificates.

After receipt of an application, the director shall authorize a credit under this section by

issuing a tax credit certificate, in the form prescribed by the director, if the director determines all of the following:

- (1) The proposed training program is an eligible training program under this section;
- (2) The proposed training program is economically sound and will benefit the people of this state by improving workforce skills and strengthening the economy of this state;
- (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the training program;
- (4) Authorization of the credit is consistent with division (H) of this section.

The credit also is allowed for a taxpayer that is a partner in a partnership that pays or incurs eligible training costs. Such a taxpayer shall determine the taxpayer's credit amount in the manner prescribed by division (K) of this section.

(D) If the director of job and family services denies an application for a tax credit certificate, the director shall send notice of the denial and the reason for denial to the applicant by certified mail, return receipt requested. If the director determines that an authorized training program, as actually conducted, fails to meet the requirements of this section or to comply with any condition set forth in the authorization, the director may reduce the amount of the tax credit previously granted. If the director reduces a tax credit, the director shall send notice of the reduction and the reason for the reduction to the taxpayer by certified mail, return receipt requested, and shall certify the reduction to the tax commissioner or, in the case of the reduction of a credit claimed by an insurance company, the superintendent of insurance. The tax commissioner or superintendent of insurance shall reduce the credit that may be claimed by the taxpayer accordingly. Within sixty days after receiving a notice of denial or notice of reduction of the tax credit, an applicant or taxpayer may request, in writing, a hearing before the director to review the denial or reduction. Within sixty days after receiving a request that is filed within the prescribed time, the director shall hold such a hearing at a location to be determined by the director. Within thirty days after the hearing is adjourned, the director shall issue a redetermination affirming, reversing, or modifying the denial or reduction of the tax credit and send notice of the redetermination to the applicant or taxpayer by certified mail, return receipt requested, and shall issue a notice of the redetermination to the tax commissioner or superintendent of insurance. If an applicant or taxpayer is aggrieved by the director's redetermination, the applicant or taxpayer may appeal the redetermination to the board of tax appeals in the manner prescribed by section 5717.02 of the Revised Code.

(E) A taxpayer to which a tax credit certificate is issued shall retain records indicating the eligible training costs it pays or incurs for the eligible training program for which the certificate is issued for four years following the end of the tax year for which the credit is claimed. Such records shall be open to inspection by the director of job and family services upon the director's request during business hours.

Financial statements and other information submitted by an applicant to the director of job and family services for a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the director of job and family services, the tax commissioner, or superintendent of insurance may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credits allowed under this section and

sections 5725.31 and 5729.07 of the Revised Code.

(F) The director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section and sections 5725.31 and 5729.07 of the Revised Code. The rules shall be adopted after consultation with the tax commissioner and the superintendent of insurance. The rules shall require that if a taxpayer to which a tax credit certificate is issued under any of those sections permanently relocates or transfers employees trained under the tax credit certificate to another state or country within two years of receiving the certificate, the taxpayer shall repay the total amount of the tax credit received by the taxpayer for any employees permanently relocated or transferred. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons and ranking minority members of the standing committees in the senate and the house of representatives to which legislation on economic development matters are customarily referred.

(G) On or before the thirtieth day of September of 2001, 2003, 2004, 2005, 2006, 2007, and 2008 the director of job and family services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section and sections 5725.31 and 5729.07 of the Revised Code. The report shall include information on the number of training programs that were authorized under those sections during the preceding calendar year, a description of each authorized training program, the dollar amounts of the credits granted, and an estimate of the impact of the credits on the economy of this state.

(H) The aggregate amount of credits authorized under this section and sections 5725.31 and 5729.07 of the Revised Code shall not exceed twenty million dollars per calendar year. No more than ten million dollars in credits per calendar year shall be authorized for persons engaged primarily in manufacturing. No less than five million dollars in credits per calendar year shall be set aside for persons engaged primarily in activities other than manufacturing and having fewer than five hundred employees. Subject to such limits, the director of job and family services shall adopt a rule under division (F) of this section that establishes criteria and procedures for distribution of the credits.

(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code.

(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section.

(K) A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership.

(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31 and 5729.07 of the Revised Code for eligible training costs paid or incurred after December 31, 2007.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context,

any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11)(a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) (12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount

the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified

tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(20) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable

to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(20)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(20) and (21) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.

(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;

(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted.

(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this section.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio

adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5902.05 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

(31) Deduct from the portion of an individual's federal adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal adjusted gross income for the taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.

(32) Deduct, as provided under section 5747.78 of the Revised Code, contributions to ABLE savings accounts made in accordance with sections 113.50 to 113.56 of the Revised Code.

(33)(a) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, all of the following:

(i) Compensation paid to a qualifying employee described in division (A)(14)(a) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;

(ii) Compensation paid to a qualifying employee described in division (A)(14)(b) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state by the employee during the disaster response period on critical infrastructure owned or used by the employee's employer;

(iii) Income received by an out-of-state disaster business for disaster work conducted in this state during a disaster response period, or, if the out-of-state disaster business is a pass-through entity, a taxpayer's distributive share of the pass-through entity's income from the business conducting disaster work in this state during a disaster response period, if, in either case, the disaster work is conducted pursuant to a qualifying solicitation received by the business.

(b) All terms used in division (A)(33) of this section have the same meanings as in section 5703.94 of the Revised Code.

(34) For a taxpayer who is a qualifying Ohio educator, deduct, to the extent not otherwise

deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the lesser of two hundred fifty dollars or the amount of expenses described in subsections (a)(2)(D)(i) and (ii) of section 62 of the Internal Revenue Code paid or incurred by the taxpayer during the taxpayer's taxable year in excess of the amount the taxpayer is authorized to deduct for that taxable year under subsection (a)(2)(D) of that section.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person

directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying

transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means one of the following:

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026,

dependents as defined in the Internal Revenue Code;

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal

Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted

exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's

calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to

subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101.

(HH) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(31) of this section for the taxable year.

(II) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.

(JJ) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under division (A)(31) of this section for the taxable year.

(KK) "Qualifying Ohio educator" means an individual who, for a taxable year, qualifies as an eligible educator, as that term is defined in section 62 of the Internal Revenue Code, and who holds a certificate, license, or permit described in Chapter 3319. or section 3301.071 of the Revised Code.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 or 1706.01 of the Revised Code as applicable, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section

5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate

fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing

jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes, tobacco products, or vapor products by a wholesale dealer, retail dealer, distributor, manufacturer, vapor distributor, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes, tobacco products, or vapor products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used

as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing. "Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.

(III) "Qualified distribution center" means a warehouse, a facility similar to a warehouse, or a refining facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. All warehouses or facilities similar to warehouses that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center. All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The

commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate effective for the remainder of the qualifying year or until the appeal is finalized, whichever is earlier. If the operator does not prevail in the appeal, the operator shall pay the ineligible operator's supplier tax liability.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(VIII) "Refining facility" means one or more buildings located in a county in the Appalachian region of this state as defined by section 107.21 of the Revised Code and utilized for refining or smelting gold, silver, platinum, or palladium to a grade and fineness acceptable for delivery to a registered commodities exchange.

(IX) "Registered commodities exchange" means a board of trade, such as New York mercantile exchange, inc. or commodity exchange, inc., designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended.

(X) "Ineligible operator's supplier tax liability" means an amount equal to the tax liability of all suppliers of a distribution center had the distribution center not been issued a qualifying certificate for the qualifying year. Ineligible operator's supplier tax liability shall not include interest or penalties. The tax commissioner shall determine an ineligible operator's supplier tax liability based on information that the commissioner may request from the operator of the distribution center. An operator shall provide a list of all suppliers of the distribution center and the corresponding costs of qualified property for the qualifying year at issue within sixty days of a request by the commissioner under this division.

(ii)(I) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall pay the ineligible operator's supplier tax liability. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(II) The commissioner may grant a qualifying certificate to a distribution center that does not qualify as a qualified distribution center for an entire qualifying period if the operator of the distribution center demonstrates that the business operations of the distribution center have changed or will change such that the distribution center will qualify as a qualified distribution center within thirty-six months after the date the operator first applies for a certificate. If, at the end of that thirty-six-month period, the business operations of the distribution center have not changed such that the distribution center qualifies as a qualified distribution center, the operator of the distribution center

shall pay the ineligible operator's supplier tax liability for each year that the distribution center received a certificate but did not qualify as a qualified distribution center. For each year the distribution center receives a certificate under division (F)(2)(z)(ii)(II) of this section, the distribution center shall pay all applicable fees required under division (F)(2)(z) of this section and shall submit an updated business plan showing the progress the distribution center made toward qualifying as a qualified distribution center during the preceding year.

(III) An operator may appeal a determination under division (F)(2)(z)(ii)(I) or (II) of this section that the ineligible operator is liable for the operator's supplier tax liability as a result of not qualifying as a qualified distribution center, as provided in section 5717.02 of the Revised Code.

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

(iv)(I) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(II) The operator of a distribution center that receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section shall make a good faith estimate of the Ohio delivery percentage that the operator estimates will apply to the distribution center at the end of the thirty-six-month period after the operator first applied for a qualifying certificate under that division. The result of the estimate shall be multiplied by a factor of one and seventy-five one-hundredths. The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross receipts for each qualifying year that the distribution center receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section, except that, if the product is less than five per cent, the Ohio delivery percentage used shall be five per cent and that, if the product exceeds forty-nine per cent, the Ohio delivery percentage used shall be forty-nine per cent.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. An operator receiving a qualifying

certificate is liable for the ineligible operator's supplier tax liability for each year the operator received a certificate but did not qualify as a qualified distribution center.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in division (F)(2)(z) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F)

(2)(gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

(hh) In the case of amounts collected by a licensed casino operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.

(ii) Receipts realized from the sale of agricultural commodities by an agricultural commodity handler, both as defined in section 926.01 of the Revised Code, that is licensed by the director of agriculture to handle agricultural commodities in this state.

(jj) Qualifying integrated supply chain receipts.

As used in division (F)(2)(jj) of this section:

(i) "Qualifying integrated supply chain receipts" means receipts of a qualified integrated supply chain vendor from the sale of qualified property delivered to, or integrated supply chain services provided to, another qualified integrated supply chain vendor or to a retailer that is a member of the integrated supply chain. "Qualifying integrated supply chain receipts" does not include receipts of a person that is not a qualified integrated supply chain vendor from the sale of raw materials to a member of an integrated supply chain, or receipts of a member of an integrated supply chain from the sale of qualified property or integrated supply chain services to a person that is not a member of the integrated supply chain.

(ii) "Qualified property" means any of the following:

(I) Component parts used to hold, contain, package, or dispense qualified products, excluding equipment;

(II) Work-in-process inventory that will become, comprise, or form a component part of a qualified product capable of being sold at retail, excluding equipment, machinery, furniture, and fixtures;

(III) Finished goods inventory that is a qualified product capable of being sold at retail in the inventory's present form.

(iii) "Qualified integrated supply chain vendor" means a person that is a member of an integrated supply chain and that provides integrated supply chain services within a qualified integrated supply chain district to a retailer that is a member of the integrated supply chain or to another qualified integrated supply chain vendor that is located within the same such district as the

person but does not share a common owner with that person.

(iv) "Qualified product" means a personal care, health, or beauty product or an aromatic product, including a candle. "Qualified product" does not include a drug that may be dispensed only pursuant to a prescription, durable medical equipment, mobility enhancing equipment, or a prosthetic device, as those terms are defined in section 5739.01 of the Revised Code.

(v) "Integrated supply chain" means two or more qualified integrated supply chain vendors certified on the most recent list certified to the tax commissioner under this division that systematically collaborate and coordinate business operations with a retailer on the flow of tangible personal property from material sourcing through manufacturing, assembly, packaging, and delivery to the retailer to improve long-term financial performance of each vendor and the supply chain that includes the retailer.

For the purpose of the certification required under this division, the reporting person for each retailer, on or before the first day of October of each year, shall certify to the tax commissioner a list of the qualified integrated supply chain vendors providing or receiving integrated supply chain services within a qualified integrated supply chain district for the ensuing calendar year. On or before the following first day of November, the commissioner shall issue a certificate to the retailer and to each vendor certified to the commissioner on that list. The certificate shall include the names of the retailer and of the qualified integrated supply chain vendors.

The retailer shall notify the commissioner of any changes to the list, including additions to or subtractions from the list or changes in the name or legal entity of vendors certified on the list, within sixty days after the date the retailer becomes aware of the change. Within thirty days after receiving that notification, the commissioner shall issue a revised certificate to the retailer and to each vendor certified on the list. The revised certificate shall include the effective date of the change.

Each recipient of a certificate issued pursuant to this division shall maintain a copy of the certificate for four years from the date the certificate was received.

(vi) "Integrated supply chain services" means procuring raw materials or manufacturing, processing, refining, assembling, packaging, or repackaging tangible personal property that will become finished goods inventory capable of being sold at retail by a retailer that is a member of an integrated supply chain.

(vii) "Retailer" means a person primarily engaged in making retail sales and any member of that person's consolidated elected taxpayer group or combined taxpayer group, whether or not that member is primarily engaged in making retail sales.

(viii) "Qualified integrated supply chain district" means the parcel or parcels of land from which a retailer's integrated supply chain that existed on September 29, 2015, provides or receives integrated supply chain services, and to which all of the following apply:

(I) The parcel or parcels are located wholly in a county having a population of greater than one hundred sixty-five thousand but less than one hundred seventy thousand based on the 2010 federal decennial census.

(II) The parcel or parcels are located wholly in the corporate limits of a municipal corporation with a population greater than seven thousand five hundred and less than eight thousand based on the 2010 federal decennial census that is partly located in the county described in division (F)(2)(jj)(viii)(I) of this section, as those corporate limits existed on September 29, 2015.

(III) The aggregate acreage of the parcel or parcels equals or exceeds one hundred acres.

(kk) In the case of a railroad company described in division (D)(9) of section 5727.01 of the Revised Code that purchases dyed diesel fuel directly from a supplier as defined by section 5736.01 of the Revised Code, an amount equal to the product of the number of gallons of dyed diesel fuel purchased directly from such a supplier multiplied by the average wholesale price for a gallon of diesel fuel as determined under section 5736.02 of the Revised Code for the period during which the fuel was purchased multiplied by a fraction, the numerator of which equals the rate of tax levied by section 5736.02 of the Revised Code less the rate of tax computed in section 5751.03 of the Revised Code, and the denominator of which equals the rate of tax computed in section 5751.03 of the Revised Code.

(ll) Receipts realized by an out-of-state disaster business from disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the business. Terms used in division (F)(2)(ll) of this section have the same meanings as in section 5703.94 of the Revised Code.

(mm) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

- (1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.
- (2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll

in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments;

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;

(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to (5) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer group if those persons are not members of a consolidated elected taxpayer group pursuant to an election under section 5751.011 of the Revised Code.

(B) A combined taxpayer group shall register, file returns, and pay taxes under this chapter as a single taxpayer and shall neither exclude taxable gross receipts between its members nor from others that are not members.

(C) Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the commissioner of any additions to the group on a form prescribed by the commissioner for such purpose.

(D)(1) In the case of one or more persons formed under Chapter 1706. of the Revised Code or under the laws of any state or of the United States as a limited liability company and series thereof, such limited liability company and any series thereof shall file as a combined taxpayer for the calendar year if it is determined, by a preponderance of the evidence, that such series of the limited liability company was created, in whole or in part, to avoid paying the tax imposed under this chapter.

(2) A series of a limited liability company shall not be determined to have been created, in whole or in part, to avoid paying the tax imposed under this chapter unless, for a limited liability company or series thereof that would otherwise be subject to the tax imposed under this chapter, the creation of the series results in either the reduction of taxable gross receipts below one hundred fifty thousand dollars or evasion of the bright-line presence standard under division (I) of section 5751.01 of the Revised Code.

(3) A taxpayer required to file as a combined taxpayer for a calendar year under division (D) of this section shall file as a combined taxpayer for all subsequent calendar years unless the taxpayer requests and receives written permission from the tax commissioner to file otherwise or unless the taxpayer has experienced a change in circumstances.

(4) If a limited liability company and the series thereof register and file as a consolidated elected taxpayer, the group may not be required to file as a combined taxpayer under division (D)(1) of this section.

SECTION 2. That existing sections 111.16, 122.16, 122.173, 135.14, 135.142, 135.35, 150.05, 718.01, 1329.01, 1329.02, 1701.03, 1701.05, 1701.791, 1702.05, 1702.411, 1703.04, 1729.36, 1729.38, 1745.461, 1751.01, 1776.69, 1776.82, 1782.02, 1782.432, 1785.09, 3345.203, 3964.03, 3964.17, 4701.14, 4703.18, 4703.331, 4715.18, 4715.22, 4715.365, 4715.431, 4717.06, 4723.16, 4725.33, 4729.161, 4729.541, 4731.226, 4731.228, 4732.28, 4733.16, 4734.17, 4755.111, 4755.471, 4757.37, 5701.14, 5715.19, 5733.04, 5733.33, 5733.42, 5747.01, 5751.01, and 5751.012 of the Revised Code are hereby repealed.

SECTION 3. That sections 1705.01, 1705.02, 1705.03, 1705.031, 1705.04, 1705.05, 1705.06, 1705.07, 1705.08, 1705.081, 1705.09, 1705.10, 1705.11, 1705.12, 1705.13, 1705.14, 1705.15, 1705.16, 1705.161, 1705.17, 1705.18, 1705.19, 1705.20, 1705.21, 1705.22, 1705.23, 1705.24, 1705.25, 1705.26, 1705.27, 1705.28, 1705.281, 1705.282, 1705.29, 1705.291, 1705.292, 1705.30, 1705.31, 1705.32, 1705.33, 1705.34, 1705.35, 1705.36, 1705.361, 1705.37, 1705.371, 1705.38, 1705.381, 1705.39, 1705.391, 1705.40, 1705.41, 1705.42, 1705.43, 1705.44, 1705.45, 1705.46, 1705.47, 1705.48, 1705.49, 1705.50, 1705.51, 1705.52, 1705.53, 1705.54, 1705.55, 1705.56, 1705.57, 1705.58, and 1705.61 of the Revised Code are hereby repealed.

SECTION 4. Section 3 of this act shall take effect on January 1, 2022.

SECTION 5. The repeal of a statute by this act shall not affect an action commenced, proceeding brought, or right accrued prior to January 1, 2022.

SECTION 6. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 111.16 of the Revised Code as amended by both Sub. H.B. 31 and Sub. H.B. 133 of the 132nd General Assembly.

Section 135.35 of the Revised Code as amended by Am. Sub. H.B. 49, Sub. H.B. 251, and S.B. 163, all of the 132 General Assembly.

Section 3345.203 of the Revised Code as amended by both Am. Sub. H.B. 384 and Sub. S.B. 3 of the 131st General Assembly.

Section 5751.012 of the Revised Code as amended by both H.B. 508 and H.B. 510 of the 129th General Assembly.

SECTION 7. That sections 127.16, 169.01, 169.03, 169.08, 169.13, and 4735.24 be amended and section 169.052 of the Revised Code be enacted to read as follows:

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive

selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under the medicaid program;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the opportunities for Ohioans with disabilities agency of services, or supplies, that are provided to persons with disabilities, or to purchases made by the agency in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of medicaid under section 5164.85 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of

the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

- (13) Applying to dues or fees paid for membership in an organization or association;
- (14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;
- (15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;
- (16) Applying to purchases of tickets for passenger air transportation;
- (17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;
- (18) Applying to the judicial branch of state government;
- (19) Applying to purchases of liquor for resale by the division of liquor control;
- (20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;
- (21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;
- (22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;
- (23) Applying to purchases from other state agencies, including state-assisted institutions of higher education or the Ohio history connection;
- (24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;
- (25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;
- (26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;
- (27) Applying to contracts entered into by the department of developmental disabilities under section 5123.18 of the Revised Code;
- (28) Applying to payments made by the department of mental health and addiction services under a physician recruitment program authorized by section 5119.185 of the Revised Code;
- (29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division ~~(F)~~(G) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.
- (30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;
- (31) Applying to the department of medicaid's purchases of health assistance services under the children's health insurance program;
- (32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence

pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;

(34) Applying to purchases of goods and services by the department of veterans services in accordance with the terms of contracts entered into by the United States department of veterans affairs;

(35) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code;

(36) Applying to contracts entered into by the department of medicaid under section 5164.47 of the Revised Code;

(37) Applying to contracts entered into under section 5160.12 of the Revised Code;

(38) Applying to payments to the Ohio history connection from other state agencies.

(E) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.

(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 169.01. As used in this chapter, unless the context otherwise requires:

(A) "Financial organization" means any bank, trust company, savings bank, safe deposit company, mutual savings bank without mutual stock, savings and loan association, credit union, or investment company.

(B)(1) "Unclaimed funds" means any moneys, rights to moneys, or intangible property, described in section 169.02 of the Revised Code, when, as shown by the records of the holder, the owner has not, within the times provided in section 169.02 of the Revised Code, done any of the following:

(a) Increased, decreased, or adjusted the amount of such funds;

(b) Assigned, paid premiums, or encumbered such funds;

(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;

(d) Corresponded with the holder concerning such funds;

(e) Otherwise indicated an interest in or knowledge of such funds;

(f) Transacted business with the holder.

(2) "Unclaimed funds" does not include any of the following:

(a) Money received or collected under section 9.39 of the Revised Code;

(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances,

nonrefunded overcharges, discounts, refunds, and rebates;

(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(d) Either of the following:

(i) Any credit or obligation due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for goods or services, including gift cards issued by financial organizations or business associations;

(ii) Any electronic payment device that is issued by a financial organization or a business association that has no expiration date and meets all of the following conditions:

(I) It is purchased or loaded on a prepaid basis for the future purchase or delivery of goods or services.

(II) It is redeemable upon presentation to a single merchant or service provider or an affiliated group of merchants or service providers.

(III) It is not redeemable for cash in whole or in part.

(e) Any open-loop prepaid card that is issued by a financial organization or a business association for which the underlying funds do not expire. For purposes of division (B)(2)(e) of this section, "open-loop prepaid card" means an electronic payment device that meets all of the following conditions:

(i) It is purchased or loaded on a prepaid basis for the future purchase or delivery of any goods or services.

(ii) It can be used to purchase goods and services at multiple unaffiliated merchants or service providers.

(iii) It is not redeemable for cash in whole or in part.

(f) Any rewards card. For purposes of division (B)(2)(f) of this section, "rewards card" includes any loyalty, incentive, or promotional type program that is issued by a financial organization or a business association whether represented by a card or electronic record, which program is established for the purposes of providing cardholder awards, rewards, rebates, or other amounts to reward the cardholder for the cardholder's relationship with the entity sponsoring the rewards card, provided that no direct money was paid by the cardholder for the rewards card. "Rewards card" includes both of the following:

(i) Cards or electronic records consisting of points, cash, or other tokens of value given to a cardholder as a reward or incentive for engaging in a transaction or a series of transactions;

(ii) The unpaid portion of a rewards card when the rewards card is partially loaded by the cardholder with the remaining portion funded as a reward or incentive.

A minimal annual fee charged to the cardholder for joining any such loyalty, incentive, or promotional type program shall not be considered direct money paid by the cardholder for the rewards card. For purposes of division (B)(2)(f) of this section, "cardholder" means the holder of a rewards card, regardless of whether the rewards card is represented by a card or by an electronic record.

For purposes of division (B)(2) of this section, "business association" means any corporation,

joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit.

(C) "Owner" means any person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against moneys, rights to moneys, or other intangible property, subject to this chapter.

(D)(1) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, if any of the following applies:

(a) Such person resides in this state;

(b) Such person is formed under the laws of this state;

(c) Such person is formed under the laws of the United States and has an office or principal place of business in this state;

(d) The records of such person indicate that the last known address of the owner of such moneys, rights to moneys, or other intangible property is in this state;

(e) The records of such person do not indicate the last known address of the owner of the moneys, rights to moneys, or other intangible property and the entity originating or issuing the moneys, rights to moneys, or other intangible property in this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state. Division (D)(1)(e) of this section applies to all moneys, rights to moneys, or other intangible property that is in the possession, custody, or control of such person on or after July 22, 1994, whether the moneys, rights to moneys, or other intangible property becomes unclaimed funds prior to or on or after that date.

(2) "Holder" does not mean any hospital granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code or any hospital owned or operated by the state or by any political subdivision. Any entity in order to be exempt from the definition of "holder" pursuant to this division shall make a reasonable, good-faith effort to contact the owner of the unclaimed funds.

(E) "Person" includes a natural person; corporation, whether for profit or not for profit; copartnership; unincorporated nonprofit association; public authority; estate; trust; two or more persons having a joint or common interest; eleemosynary organization; fraternal or cooperative association; other legal or community entity; the United States government, including any district, territory, possession, officer, agency, department, authority, instrumentality, board, bureau, or court; or any state or political subdivision thereof, including any officer, agency, board, bureau, commission, division, department, authority, court, or instrumentality.

(F) "Mortgage funds" means the mortgage insurance fund created by section 122.561 of the Revised Code, and the housing guarantee fund created by division (D) of section 128.11 of the Revised Code.

(G) "Lawful claims" means any vested right a holder of unclaimed funds has against the owner of such unclaimed funds.

(H) "Public utility" means any entity defined as such by division (A) of section 745.01 or by section 4905.02 of the Revised Code.

(I) "Deposit" means to place money in the custody of a financial organization for the purpose of establishing an income-bearing account by purchase or otherwise.

(J) "Income-bearing account" means a time or savings account, whether or not evidenced by a certificate of deposit, or an investment account through which investments are made solely in

obligations of the United States or its agencies or instrumentalities or guaranteed as to principal and interest by the United States or its agencies or instrumentalities, debt securities rated as investment grade by at least two nationally recognized rating services, debt securities which the director of commerce has determined to have been issued for the safety and welfare of the residents of this state, and equity interests in mutual funds that invest solely in some or all of the above-listed securities and involve no general liability, without regard to whether income earned on such accounts, securities, or interests is paid periodically or at the end of a term.

(K) "Director of commerce" may be read as the "division of unclaimed funds" or the "superintendent of unclaimed funds."

(L) "Attorney unclaimed funds" means any unclaimed funds, as defined in division (B)(1) of this section, that are any of the following:

(1) Funds held in interest on lawyer trust accounts pursuant to section 4705.09 of the Revised Code;

(2) Funds held in an interest on trust accounts pursuant to section 3953.231 of the Revised Code;

(3) Residual settlement funds whether for named or unnamed plaintiffs, received by the division of unclaimed funds, and held, paid out, or allocated by the division pursuant to or consistent with the terms and conditions of the court order authorizing the settlement fund.

Sec. 169.03. (A)(1) Every holder of unclaimed funds and, when requested, every person that could be the holder of unclaimed funds, under this chapter shall report to the director of commerce with respect to the unclaimed funds as provided in this section. The report shall be verified.

(2) With respect to items of unclaimed funds each having a value of fifty dollars or more, the report required under division (A)(1) of this section shall include the following:

(a) The full name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds under this chapter;

(b) In the case of unclaimed funds reported by holders providing life insurance coverage, the full name of the insured or annuitant and beneficiary, if any, and their last known addresses according to the holder's records;

(c) The nature and identifying number, if any, or description of the funds and the amount appearing from the records to be due;

(d) The date when the funds became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the funds;

(e) Subject to division ~~(H)~~(J) of this section, the social security number of the owner of the unclaimed funds, if it is available;

(f) If the item of unclaimed funds has a value of one thousand dollars or more and the holder has verified that the last known address as shown by the records of the holder is not accurate as provided in division ~~(D)~~(E) of this section, a statement that efforts were undertaken by the holder to verify that the address is not accurate. Any verifying documentation shall be maintained by the holder for five years from the date of the report and shall be available upon request to the director or the director's designee.

(g) Other information that the director prescribes as necessary for the administration of this chapter.

(3) With respect to items of unclaimed funds each having a value of less than fifty dollars, the report required under division (A)(1) of this section shall include the following:

(a) Each category of items of unclaimed funds as described in section 169.02 of the Revised Code;

(b) The number of items of unclaimed funds within each category;

(c) The aggregated value of the items of unclaimed funds within each category.

(B) If the holder of unclaimed funds is holding attorney unclaimed funds or residual settlement funds, the holder shall transmit, upon the division's request, a duplicate copy of the report required by division (A) of this section to the Ohio access to justice foundation, established pursuant to section 120.521 of the Revised Code.

(C) If the holder of unclaimed funds is a successor to other organizations that previously held the funds for the owner, or if the holder has changed its name while holding the funds, it shall file with the report all prior known names and addresses and date and state of incorporation or formation of each holder of the funds.

~~(C)~~(D) The report shall be filed before the first day of November of each year as of the preceding thirtieth day of June, but the report of holders providing life insurance coverage shall be filed before the first day of May of each year as of the preceding thirty-first day of December. The director may postpone, for good cause shown, the reporting date upon written request by any holder required to file a report.

~~(D)~~(E) The holder of unclaimed funds under this chapter shall send notice to each owner of each item of unclaimed funds having a value of fifty dollars or more at the last known address of the owner as shown by the records of the holder before filing the annual report. In case of holders providing life insurance coverage, this notice shall also be mailed to each beneficiary at the last known address of the beneficiary as shown by the records of the holder, except that the notice to beneficiaries shall not be mailed if that address is the same as that of the insured and the surname of the beneficiary is the same as that of the insured. The holder shall not report an item of unclaimed funds earlier than the thirtieth day after the mailing of notice required by this division.

The notice required by this division shall set forth the nature and identifying number, if any, or description of the funds and the amount appearing on the records of the holder to be due the owner or beneficiary, and shall inform the owner or beneficiary that the funds will, thirty days after the mailing of the notice, be reported as unclaimed funds under this chapter. A self-addressed, stamped envelope shall be included with the notice, with instructions that the owner or beneficiary may use the envelope to inform the holder of the owner's or beneficiary's continued interest in the funds, and, if so informed before the date for making the report to the director, the holder shall not report the funds to the director. The notice shall be mailed by first class mail if the item of unclaimed funds has a value of fifty dollars or more but less than one thousand dollars and by certified mail, return receipt requested, if the item of unclaimed funds has a value of one thousand dollars or more, unless the holder has verified that the last known address of the owner or beneficiary as shown by the records of the holder is not accurate. For purposes of this section, a holder has verified that the last known address of the owner or beneficiary is not accurate by documenting at least two of the following:

(1) The owner or beneficiary failed to respond to a first class mail notice sent to the last known address of the owner or beneficiary.

(2) A first class mail notice sent by the holder to the last known address of the owner or beneficiary was returned as undeliverable.

(3) An electronic or manual search of available public records failed to confirm that the last known address of the owner or beneficiary is accurate. The holder shall maintain documentation of its search efforts. If a search of public records or databases identifies a more recent address for the owner or beneficiary than the address in the holder's records, the holder shall send notice to the owner or beneficiary at that more recent address in accordance with this section.

A holder that sends a notice by certified mail, return receipt requested, may charge the item of unclaimed funds up to twenty dollars for providing that notice.

If there is no address of record for the owner or beneficiary, the holder is relieved of any responsibility of sending notice, attempting to notify, or notifying the owner or beneficiary. The mailing of notice pursuant to this section shall discharge the holder from any further responsibility to give notice.

~~(E)-(F)~~ Verification of the report and of the mailing of notice, where required, shall be executed by an officer of the reporting holder.

~~(F)(1)-(G)(1)~~ The director may, at reasonable times and upon reasonable notice, examine or cause to be examined, by auditors of supervisory departments or divisions of the state, the records of any holder to determine compliance with this chapter.

(2) Holders shall retain records, designated by the director as applicable to unclaimed funds, for five years beyond the relevant time period provided in section 169.02 of the Revised Code, or until completion of an audit conducted pursuant to division ~~(F)-(G)~~ of this section, whichever occurs first. An audit conducted pursuant to division ~~(F)-(G)~~ of this section shall not require a holder to make records available for a period of time exceeding the records retention period set forth in division ~~(F)-(G)~~ of this section, except for records pertaining to instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, or pertaining to debt of a publicly traded corporation. Any holder that is audited pursuant to division ~~(F)-(G)~~ of this section shall only be required to make available those records that are relevant to an unclaimed funds audit of that holder as prescribed by the director.

(3) The director may enter into contracts, pursuant to procedures prescribed by the director, with persons for the sole purpose of examining the records of holders, determining compliance with this chapter, and collecting, taking possession of, and remitting to the department's division of unclaimed funds, in a timely manner, the amounts found and defined as unclaimed. The director shall not enter into such a contract with a person unless the person does all of the following:

(a) Agrees to maintain the confidentiality of the records examined, as required under division ~~(F)(4)-(G)(4)~~ of this section;

(b) Agrees to conduct the audit in accordance with rules adopted under section 169.09 of the Revised Code;

(c) Obtains a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the director and in the penal sum determined by the director. The bond shall be for the benefit of any holder of unclaimed funds that is

audited by the principal and is injured by the principal's failure to comply with division ~~(F)(3)(a)~~ (G)(3)(a) or (b) of this section.

(4) Records audited pursuant to division ~~(F)~~ (G) of this section are confidential, and shall not be disclosed except as required by section 169.06 of the Revised Code or as the director considers necessary in the proper administration of this chapter.

(5) If a person with whom the director has entered into a contract pursuant to division ~~(F)(3)~~ (G)(3) of this section intends to conduct, in conjunction with an unclaimed funds audit under this section, an unclaimed funds audit for the purpose of administering another state's unclaimed or abandoned property laws, the person, prior to commencing the audit, shall provide written notice to the director of the person's intent to conduct such an audit, along with documentation evidencing the person's express authorization from the other state to conduct the audit on behalf of that state.

(6) Prior to the commencement of an audit conducted pursuant to division ~~(F)~~ (G) of this section, the director shall notify the holder of unclaimed funds of the director's intent to audit the holder's records. If the audit will be conducted in conjunction with an audit for one or more other states, the director shall provide the holder with the name or names of those states.

(7) Any holder of unclaimed funds may appeal the findings of an audit conducted pursuant to division ~~(F)~~ (G) of this section to the director. Pursuant to the authority granted by section 169.09 of the Revised Code, the director shall adopt rules establishing procedures for considering such an appeal.

~~(G)~~ (H) All holders shall make sufficient investigation of their records to ensure that the funds reported to the director are unclaimed as set forth in division (B) of section 169.01 and section 169.02 of the Revised Code.

~~(H)~~ (I) The expiration of any period of limitations on or after March 1, 1968, within which a person entitled to any moneys, rights to moneys, or intangible property could have commenced an action or proceeding to obtain these items shall not prevent these items from becoming unclaimed funds or relieve the holder of them of any duty to report and give notice as provided in this section and deliver them in the manner provided in section 169.05 of the Revised Code, provided that the holder may comply with this section and section 169.05 of the Revised Code with respect to any moneys, rights to moneys, or intangible property as to which the applicable statute of limitations has run prior to March 1, 1968, and in that event the holder shall be entitled to the protective provisions of section 169.07 of the Revised Code.

~~(I)~~ (J) No social security number contained in a report made pursuant to this section shall be used by the department of commerce for any purpose other than to enable the division of unclaimed funds to carry out the purposes of this chapter and for child support purposes in response to a request made by the office of child support in the department of job and family services made pursuant to section 3123.88 of the Revised Code.

Sec. 169.052. (A) Every holder of attorney unclaimed funds shall, at the time of filing, remit to the director of commerce one hundred per cent of the aggregate amount of unclaimed funds as shown on the report. The funds may be claimed by the director of the Ohio access to justice foundation, created pursuant to section 120.521 of the Revised Code. Interest shall accrue on attorney unclaimed funds in accordance with division (D) of section 169.08 of the Revised Code while held by the Ohio access to justice foundation and shall be credited to attorney unclaimed funds.

(B) The director of commerce or the director's designee shall serve on the board of directors of the Ohio access to justice foundation which holds attorney unclaimed funds.

(C) Funds recovered by the Ohio access to justice foundation are subject to call at the discretion of the director of commerce to be returned to the department of commerce. Funds recovered by the Ohio access to justice foundation shall be used to provide financial assistance to legal aid societies, to enhance or improve access to justice, or to operate the foundation.

(D) Attorney unclaimed funds held by the Ohio access to justice foundation may be assessed the actual, reasonable cost the department of commerce incurs for administering attorney unclaimed funds as described in division (B) of section 169.03 of the Revised Code, this section, and section 169.08 of the Revised Code.

Sec. 169.08. (A) The director shall pay to the owner or other person who has established the right to payment under this section, funds from the unclaimed funds trust fund in an amount equal to the amount of property delivered or reported to the director, or equal to the net proceeds if the securities or other property have been sold, together with interest earned by the state if required to be paid under division (D) of this section. Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section 3123.88 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest earned by the state shall be payable to claimants of unclaimed funds held by the state in accordance with final court orders derived from the *Sogg v. Zurz*, 121 Ohio St.3d 449 (2009), line of cases and final settlement agreement determining payment of interest on unclaimed funds. For properties received by the state on or before July 26, 1991, interest shall be paid at a rate of six per cent per annum from the date the state received the property up to and including July 26, 1991. No interest shall be payable on any properties for the period from July 27, 1991, up to and including August 2, 2000. For properties held by the state on August 3, 2000, or after, interest shall be paid at the applicable required rate per annum for the period held from August 3, 2000, or the date of receipt,

whichever is later, up to and including the date the claim is paid.

(E) Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disburseable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(F)(1) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(2) If a claim that is allowed under this section relates to attorney unclaimed funds that have been recovered by the Ohio access to justice foundation, pursuant to division (A) of section 169.052 of the Revised Code and division (A) of this section, the director shall notify the Ohio access to justice foundation in writing of the payment of the claim and the Ohio access to justice foundation shall immediately reimburse the unclaimed funds trust fund in the amount of such claim inclusive of interest as required by division (D) of this section. The reimbursement shall be credited to the unclaimed funds trust fund.

(G) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

(H) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 169.13. (A)(1) All agreements to pay a fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in the recovery of unclaimed funds reported under

section 169.03 of the Revised Code, entered into within two years immediately after the date a report is filed under division ~~(C)~~(D) of section 169.03 of the Revised Code, are invalid.

(2) A person interested in entering into an agreement to locate, deliver, recover, or assist in the recovery of unclaimed funds for remuneration shall not initiate any contact with an owner during the two-year period immediately after the date a report is filed under division ~~(C)~~(D) of section 169.03 of the Revised Code. Failure to comply with this requirement is grounds for the invalidation of any such agreement between the person and the owner.

(B) An agreement entered into any time after such two-year period is valid only if all of the following conditions are met:

(1) The aggregate fee, compensation, commission, or other remuneration agreed upon is not in excess of ten per cent of the amount recovered and paid to the owner by the director of budget and management;

(2) The agreement is in writing, signed by the owner, and notarized and discloses all of the following items:

(a) The name, address, and telephone number of the owner, as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(b) The name, address, and telephone number of the owner if the owner's name, address, or telephone number are different from the name, address, or telephone number of the owner as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(c) The nature and value of the unclaimed funds or contents of a safe deposit box;

(d) The amount the owner will receive after the fee or compensation has been subtracted;

(e) The name and address of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(f) That the ~~auditor of state~~ director of budget and management will pay the unclaimed funds directly to the owner or the director of commerce shall deliver the contents of a safe deposit box directly to the owner;

(g) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box is not an employee or agent of the director of commerce;

(h) That the director of commerce is not a party to the agreement;

(i) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box holds a valid certificate of registration issued by the director under section 169.16 of the Revised Code;

(j) The number designated on that certificate of registration and the date the certificate of registration expires.

(3) No agreement described in division (B)(2) of this section shall include a power of attorney for the payment of the unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box.

(4) If the agreement involves recovery of the contents of a safe deposit box, the agreement stipulates that the person receiving any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the

recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person shall do all of the following:

(a) Make arrangements to have an appraiser and the director of commerce view the contents of the safe deposit box together, at a time mutually agreeable to the appraiser and director;

(b) State that the value of the property in the safe deposit box is the amount established by the appraiser who viewed the safe deposit box contents;

(c) Base the fee, compensation, commission, or other remuneration for locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on the appraised value established by the appraiser who viewed the safe deposit box contents.

(C) No person shall receive a fee, compensation, commission, or other remuneration, or engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, under an agreement that is invalid under this section.

(D) A person who receives any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person cannot function as an appraiser of the contents of the safe deposit box for purposes of division (B)(4) of this section.

(E) The director shall not recognize or make any delivery and the auditor of state shall not make any payment pursuant to any power of attorney between an owner of the unclaimed funds or contents of a safe deposit box and the person with whom the owner entered into an agreement pursuant to division (B)(2) of this section to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box if that power of attorney is entered into on or after ~~the effective date of this amendment~~ March 23, 2007, and that power of attorney specifically provides for the payment of unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box. Nothing in this section shall be construed as prohibiting the payment of unclaimed funds or delivery of the contents of a safe deposit box to the legal representative of the owner of the unclaimed funds or contents of the safe deposit box. Notwithstanding the definition of "owner" specified in division (C) of section 169.01 of the Revised Code, for purposes of the payment of unclaimed funds or delivery of the contents of the safe deposit box, a person with whom an owner entered into an agreement under division (B)(2) of this section is not a legal representative.

Sec. 4735.24. (A) Except as otherwise provided in this section, when earnest money connected to a real estate purchase agreement is deposited in a real estate broker's trust or special account, the broker shall maintain that money in the account in accordance with the terms of the purchase agreement until one of the following occurs:

(1) The transaction closes and the broker disburses the earnest money to the closing or escrow agent or otherwise disburses the money pursuant to the terms of the purchase agreement.

(2) The parties provide the broker with separate written instructions that both parties have signed that specify how the broker is to disburse the earnest money and the broker acts pursuant to those instructions.

(3) The broker receives a copy of a final court order that specifies to whom the earnest money

is to be awarded and the broker acts pursuant to the court order.

(4) The earnest money becomes unclaimed funds as defined in division (M)(2) of section 169.02 of the Revised Code and, after providing the notice that division ~~(D)~~(E) of section 169.03 of the Revised Code requires, the broker has reported the unclaimed funds to the director of commerce pursuant to section 169.03 of the Revised Code and has remitted all of the earnest money to the director.

(B) A purchase agreement may provide that in the event of a dispute regarding the disbursement of the earnest money, the broker will return the money to the purchaser without notice to the parties unless, within two years from the date the earnest money was deposited in the broker's trust or special account, the broker has received one of the following:

- (1) Written instructions signed by both parties specifying how the money is to be disbursed;
- (2) Written notice that a court action to resolve the dispute has been filed.

(C)(1) If the parties dispute the disbursement of the earnest money and the purchase agreement contains the provision described in division (B) of this section, not later than the first day of September following the two year anniversary date of the deposit of the earnest money in the broker's account, the broker shall return the earnest money to the purchaser unless the parties provided the broker with written instructions or a notice of a court action as described in division (B) of this section.

(2) If the broker cannot locate the purchaser at the time the disbursement is due, after providing the notice that division ~~(D)~~(E) of section 169.03 of the Revised Code requires, the broker shall report the earnest money as unclaimed funds to the director of commerce pursuant to section 169.03 of the Revised Code and remit all of the earnest money to the director.

SECTION 8. That existing sections 127.16, 169.01, 169.03, 169.08, 169.13, and 4735.24 of the Revised Code are hereby repealed.

SECTION 9. Section 169.13 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 699 and S.B. 223 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____