

(127th General Assembly)
(Substitute House Bill Number 289)

AN ACT

To amend sections 931.02, 931.03, 931.04, 931.99, 5709.28, and 5713.08 of the Revised Code to make changes to the law governing agricultural security areas.

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

SECTION 1. That sections 931.02, 931.03, 931.04, 931.99, 5709.28, and 5713.08 of the Revised Code be amended to read as follows:

Sec. 931.02. (A) Land that is located in the unincorporated area of a township or county may be enrolled in an agricultural security area through the submittal of an application to the board of township trustees of each township and to the board of county commissioners of each county in which the land is located requesting the establishment of such an area. Land that is located in a municipal corporation and land that is located in territory that is proposed to be annexed to a municipal corporation by a pending proceeding before the board of county commissioners or in any court of competent jurisdiction shall not be included in an agricultural security area.

If all of the land sought to be enrolled in the agricultural security area is owned by the same person, that person shall submit the application to the required boards. If the land sought to be enrolled consists of parcels owned by different persons who have aggregated their parcels, either each owner may submit a separate application to the required boards or all of the owners collectively may submit one application for the entire agricultural security area to the required boards.

An application shall be on the form that the director of agriculture prescribes. The director shall provide copies of the application form to county auditors.

An application shall be signed by each applicant who is submitting it and shall contain all of the following:

- (1) The first, middle, and last name of the applicant or applicants;
- (2) Information concerning any property interest in the land sought to be enrolled in an agricultural security area that is held by a person other than the applicant or applicants, including, without limitation, mineral rights or easements in the land that are held by a person other than the applicant or

applicants and any other interest in the land that may not be conducive to agriculture and that is held by another person;

(3) A statement by each applicant who is submitting the application that the applicant will not initiate, approve, or finance any new development for nonagricultural purposes on the land that is proposed to be enrolled in an agricultural security area during the ten-year period of the enrollment, except as is otherwise authorized under division (A) of section 931.04 of the Revised Code. For purposes of division (A)(3) of this section, "new development" includes, without limitation, an applicant's transfer to another person of the ownership of a property interest in the land that occurs during the period beginning on the date that the application is submitted and ending on the date that the ten-year period of enrollment is scheduled to expire, except as otherwise provided in division (D) of this section. "New development" does not include taking any actions that are authorized under property rights in the land, such as mineral rights or easements, that were transferred to a person other than an applicant prior to the date that the application is submitted. In addition, "new development" does not include the construction, modification, or operation of wind energy-producing facilities, including windmills and wind turbines, the grant of easements for or the construction, modification, or operation of transmission or distribution lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, or the grant of new mineral leases, or the drilling or operation of any oil or gas well on or in connection with the land, provided that the construction, modification, or operation of the lines does such activities do not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code.

(4) A listing of all administrative enforcement orders issued to each applicant who is submitting the application, all civil actions in which an applicant was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which an applicant pleaded guilty or was convicted, during the ten years immediately preceding the date of submission of the application, in connection with any violation of environmental laws or similar laws of another state. As used in division (A)(4) of this section, "environmental laws" has the same meaning as in section 3745.70 of the Revised Code.

(5) A statement from the natural resources conservation service in the United States department of agriculture, a soil and water conservation district with jurisdiction over the land to which the application applies, or

any other conservation professional approved by the director that, at the time of the application, each applicant who is submitting the application is complying with best management practices;

(6) A map that complies with all of the following:

(a) Is prepared ~~and certified~~ by a regional or county planning commission established under section 713.21 of the Revised Code ~~or~~; a professional engineer, including a county engineer, or surveyor registered under Chapter 4733. of the Revised Code; a soil and water conservation district created pursuant to section 1515.03 of the Revised Code; or the natural resources conservation service;

(b) Identifies the area of land to which the application applies and includes the corresponding parcel number that the county auditor has assigned under section 319.28 of the Revised Code to each parcel of land that comprises that area;

(c) Shows the boundaries of the land to be enrolled in an agricultural security area;

(d) Shows the names and locations of all streams, creeks, or other bodies of water, roads, rights-of-way, and railroads, ~~utility lines, and water and sewer lines~~ together with any existing residential, recreational, commercial, or industrial facilities that are ~~on or are~~ situated on the land to be included in the area and within five hundred feet of the perimeter of the area; The map also shall show the location of all utility, water, and sewer lines that are situated on the land to be included in the area and within five hundred feet of the perimeter of the area unless the board of county commissioners of each county and the board of township trustees of each township in which the land is located exempts the application from that requirement because the information generally is not readily available.

(e) Indicates the date on which the map was prepared;

(f) Identifies the person or persons who prepared the map.

(7) A list of the other boards of township trustees and boards of county commissioners to whom an application has been submitted.

An application submitted under this section is a public record.

A board of township trustees and a board of county commissioners each may establish a reasonable fee or schedule of fees to be paid at the time that an application is submitted for the purpose of paying the costs of public notice and certified mail that are incurred in any proceedings conducted under this chapter. The clerk of the board shall maintain an accurate and detailed accounting of all money that is received and expended in the processing of an application and shall return to the applicant any unused portion of the fee or fees after the conclusion of the proceedings.

(B) An area shall be established as an agricultural security area when all of the following criteria are satisfied:

(1) The area consists of not less than five hundred acres of contiguous farmland that is located in the unincorporated area of a township or county. In order to satisfy this requirement, two or more owners of contiguous farmland may aggregate their land.

(2) The land forming the area is in an agricultural district or districts established under Chapter 929. of the Revised Code.

(3) The land forming the area is valued and assessed for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code. Land forming the area that is a portion of a farm on which is located a dwelling house, a yard, or outbuildings such as a barn or garage shall be deemed to satisfy the criteria established in divisions (B)(1) and (3) of this section.

(4) Each application submitted by the owner or owners of the land forming the area is approved under section 931.03 of the Revised Code by the boards of township trustees of all of the townships in which the land is located.

(5) Each application submitted by the owner or owners of the land forming the area is approved under section 931.03 of the Revised Code by the boards of county commissioners of all of the counties in which the land is located.

(C) Additional contiguous farmland may be enrolled in an existing agricultural security area during a partially elapsed ten-year enrollment period either by a landowner who already has land enrolled in the agricultural security area or by a landowner who does not already have land enrolled in the agricultural security area. To enroll additional contiguous land in an existing agricultural security area under this division, a landowner shall obtain permission from each owner of land that already is enrolled in the agricultural security area, submit an application in accordance with this section, and obtain approval of the application from all appropriate boards of township trustees and boards of county commissioners in accordance with section 931.03 of the Revised Code. Enrollment of the additional land in the existing agricultural security area shall continue until the expiration of the current, partially elapsed ten-year enrollment period and may be renewed in accordance with section 931.06 of the Revised Code.

(D) If an owner of land that is enrolled in an agricultural security area transfers the land to another person during a partially elapsed ten-year enrollment period, the land may remain in the agricultural security area until the expiration of that period, provided that both of the following apply:

(1) The transferee certifies and submits a statement, together with the transferee's first, middle, and last name and a description of the transferred land, to the appropriate boards of township trustees and boards of county commissioners specifying that, in accordance with division (A)(3) of this section, the transferee will not initiate, approve, or finance any new development for nonagricultural purposes on the transferred land during the remainder of the partially elapsed ten-year enrollment period. Upon receipt of the statement, the boards of township trustees and boards of county commissioners shall adopt a resolution acknowledging the receipt.

(2) The transferred land continues to satisfy the criteria established in divisions (B)(2) and (3) of this section during the remainder of the partially elapsed ten-year enrollment period.

Divisions (A), (B), and (C) of section 931.03 of the Revised Code do not apply to the continued inclusion of such transferred land in an agricultural security area. Upon the expiration of the partially elapsed ten-year enrollment period, enrollment in the agricultural security area may be renewed in accordance with section 931.06 of the Revised Code.

Sec. 931.03. (A)(1) Not later than sixty days after receipt of an application submitted under section 931.02 of the Revised Code, the board of township trustees of each township in which the land that is proposed for enrollment in an agricultural security area is located and the board of county commissioners of each county in which the land is located shall hear the application at the next regularly scheduled meeting of the board. A board, not later than thirty days prior to the time of the meeting, shall cause a notice containing the time and place of the meeting to be published in a newspaper of general circulation in the township or county, as applicable, and to be sent to the superintendent of each school district within the proposed agricultural security area, the county engineer of each county in which the proposed area would be located, the legislative authority of each municipal corporation that is located within one-half mile of the boundaries of the proposed area if the municipal corporation has requested notice of such a meeting, and the director of transportation.

As part of the hearing on an application, a board shall review any information that it possesses concerning improvements that are planned to be made during the subsequent ten years to existing or proposed roads that are located or are to be located within the area that is proposed for enrollment in an agricultural security area. As used in division (A)(1) of this section, "proposed road" means any future roadway project that is on a new alignment or relocation of an existing alignment and for which state or federal funding has been allocated for, but not limited to, a planning level

roadway improvement study, an interchange justification or bypass study, environmental review, design, right-of-way acquisition, or construction, and "improvement" includes any action taken with respect to an existing or proposed road that would cause the road to cover a portion of land that it does not cover or is not proposed to cover at the time of the hearing. Any portion of land that would be covered by a planned improvement shall not be eligible for enrollment in an agricultural security area.

As part of the hearing on an application, a board also may consider any comprehensive plan that is in place for the county or township, as applicable, and may choose to approve or reject the application on the basis of the proposed agricultural security area's compliance with the comprehensive plan.

(2) The board of township trustees of each township and the board of county commissioners of each county that is required to hear an application under division (A)(1) of this section may conduct a joint meeting in lieu of meeting separately not later than forty-five days after receipt of an application under section 931.02 of the Revised Code. A single public notice concerning the meeting shall be provided in the manner prescribed in division (A)(1) of this section in each township and county participating in the meeting. The cost of the public notice shall be shared equally by all townships and counties participating in the joint meeting.

For purposes of such a joint meeting, the clerk of the board of county commissioners of the county that includes the most land that is located or is to be located within the agricultural security area shall serve as the clerk on behalf of all boards of county commissioners and boards of township trustees participating in the joint meeting. The clerk's duties shall include providing the public notice that is required under this section together with maintaining minutes and a record of proceedings for the joint meeting.

(3) Not later than forty-five days after a board of township trustees hears the application and not later than sixty days after a board of county commissioners hears the application, each respective board shall adopt a resolution either approving or rejecting the application. However, if a board determines that the information in the application is incorrect or the application is incomplete, the board shall return the application to the applicant, by certified mail, with an enumeration of the items that are incorrect or incomplete.

Upon receipt of the returned application, the applicant may amend the application. Not later than fifteen days after receipt of the returned application, the applicant may submit an amended application to each board of township trustees and each board of county commissioners to whom the

original application was submitted.

Not later than thirty days after receipt of an amended application, a board shall adopt a resolution either approving or rejecting the amended application. Not later than five days after adoption of the resolution, the board shall notify the applicant, by certified mail, of the board's decision to approve or reject the application.

(4) Any person may submit comments to any board of county commissioners or board of township trustees to which an application or amended application has been submitted under this chapter at any time prior to and at any public meeting at which the application or amended application is heard.

(B)(1) An agricultural security area is established, and the land that is proposed for inclusion in the area is enrolled in the area, upon the adoption of a resolution by each of the affected boards of township trustees and boards of county commissioners approving the same version of the application or applications requesting the establishment of the area.

(2) Not later than thirty days after a board adopts a resolution approving the establishment of an agricultural security area, the board shall send a copy of the resolution to the director of agriculture, the director of transportation, the superintendent of each school district within the area, the county engineer, and the county auditor.

(C) A resolution approving the establishment of an agricultural security area shall include all of the following:

(1) A statement that the board of township trustees or board of county commissioners, as applicable, commits not to initiate, approve, or finance any development for residential, commercial, or industrial purposes, including construction of new roads and water and sewer lines, within the area for a period of ten years. For purposes of division (C)(1) of this section, "development" does not include any of the following:

(a) The improvement of existing roads, provided that the county engineer of each county in which the portion of the area affected by the improvement is located determines that the improvement is necessary for traffic safety, and provided that the improvement is as consistent as possible with the agricultural use of land in the area;

(b) The construction, modification, or operation of transmission or distribution lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, provided that the construction, modification, or operation of the lines does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised

Code;

(c) The construction, modification, or operation of water lines or sewer lines, provided that an official or employee of the environmental protection agency orders the construction, modification, or operation for the purpose of enabling water and sewer service areas that are outside of the agricultural security area to be connected to each other, and provided that the lines do not provide service connections to land within the agricultural security area.

(2) A requirement that the owner or owners of the land in the area use best management practices;

(3) A statement that describes the agreement that was reached with other boards, if applicable, under section 5709.28 of the Revised Code concerning the percentage of the taxable value of qualifying agricultural real property in the agricultural security area that is to be exempted from taxation under that section and the number of years that the tax exemption established under that section will apply to that property.

(D) An agricultural security area may continue in existence for ten years unless either of the following occurs:

(1) The sole owner of land enrolled in the area withdraws under section 931.07 of the Revised Code.

(2) Unless division (C) of section 931.07 of the Revised Code applies, land in the area fails to satisfy any of the criteria specified in divisions (B)(1) to (3) of section 931.02 of the Revised Code.

(E) The approval or disapproval of an application under this section is not a final order, adjudication, or decision under section 2506.01 of the Revised Code and is not appealable under Chapter 2506. of the Revised Code.

Sec. 931.04. (A) An owner of land that is enrolled in an agricultural security area may do either or both of the following:

(1) Request approval ~~to operate any business that does not impair the owner's ability to engage in agriculture~~ from each board of township trustees and each board of county commissioners that adopted a resolution approving the establishment of the agricultural security area to operate any business that does not impair the owner's ability to engage in agriculture and does not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code;

(2) Develop, authorize the development of, or, for the purpose of developing, transfer ownership of a portion of the owner's land within the agricultural security area for constructing or otherwise establishing a single-family residence for an individual who is related by consanguinity or

by affinity to the owner. Not more than one such residence shall be constructed per each forty acres of the owner's land within the agricultural security area.

(B)(1) To obtain approval to operate a business under division (A)(1) of this section, a person shall send a written request, by certified mail, to each appropriate board of township trustees and each appropriate board of county commissioners. The request shall contain all of the following:

- (a) A description of the proposed business;
- (b) A description of the intended location of the business;
- (c) A description of the intended size of the business;
- (d) If applicable, a detailed description of any construction, renovation, or excavation that will occur for purposes of the proposed business.

(2) Not later than thirty days after receipt of a request under division (B)(1) of this section, a board shall adopt a resolution either approving or rejecting the request. If the board approves the request, the board shall send a copy of the resolution approving the request to each of the following not later than thirty days after adopting the resolution:

- (a) The director of agriculture;
- (b) Each appropriate county auditor;
- (c) The person requesting the business.

(3) If all of the appropriate boards of township trustees and boards of county commissioners adopt a resolution approving the request to operate a business, the person making the request may establish the requested business.

(C) The amount of land that is used for either purpose authorized under division (A) of this section shall be included when determining if the acreage requirement established under division (B) of section 931.02 of the Revised Code is satisfied.

Sec. 931.99. Whoever violates division (A)(2) of section 931.07 of the Revised Code or section 931.08 of the Revised Code shall be fined five hundred dollars for violation of each section. The clerk of the court that receives payment of the fine money shall forward half of the money to the board of township trustees of the township and half of the money to the board of county commissioners of the county in which the applicable agricultural security area is located.

In the case of an agricultural security area that is located in more than one township, the clerk shall divide half of the fine money in equal shares among the townships and shall forward the appropriate portion to each board of township trustees. In the case of an agricultural security area that is located in more than one county, the clerk shall divide half of the fine

money in equal shares among the counties and shall forward the appropriate portion to each board of county commissioners.

A board of township trustees or a board of county commissioners may, but is not required to, use the fine money received under this section for farmland preservation purposes.

Sec. 5709.28. As used in this section, "qualifying agricultural real property" means a building, structure, improvement, or fixture that is used exclusively for agricultural purposes, that is located on land enrolled in an agricultural security area established under Chapter 931. of the Revised Code, and for which the aggregate new investment has a true value in money of twenty-five thousand dollars or more.

At the time of the establishment or renewal of an agricultural security area or at any time during which land is enrolled in an agricultural security area, a percentage of the taxable value of qualifying agricultural real property first appearing on the real and public utility property tax list in a tax year during the enrollment may be exempted from taxation. The board of township trustees of each township in which the land that is enrolled in the agricultural security area is located and the board of county commissioners of each county in which the land is located shall confer with each other and reach an agreement concerning the tax exemption. At the time the agreement is reached, the boards shall send written notice of the agreement to the superintendent of each school district within the agricultural security area. After the agreement is reached and the tax exemption is granted, the qualifying agricultural real property shall become exempt in the tax year following the year in which the construction of the property is completed.

The agreement shall establish the percentage of the taxable value of qualifying agricultural real property that is to be exempted from taxation and the number of years that the tax exemption will apply to that property. The agreement may specify that the tax years during which the exemption will apply to the property may extend past the scheduled expiration date of the period of enrollment in the agricultural security area, provided that the enrollment is renewed and otherwise continues during the tax years that the exemption applies. The agreement shall not exempt from taxation more than seventy-five per cent of the taxable value of the qualifying agricultural real property. In addition, the agreement may establish the maximum amount of the value of the qualifying agricultural real property to which the tax exemption may apply. Subsequent to the agreement establishing that maximum amount, the owner of the property may request the applicable boards to alter the agreement and increase the maximum value of the property to which the tax exemption applies. The agreement shall be

reviewed annually by the tax incentive review council in accordance with section 5709.85 of the Revised Code.

Each time that a renewal application is filed for an agricultural security area that involves qualifying agricultural real property that has been the subject of an exemption that expired on or before the date on which the previous period of enrollment in an agricultural security area expired, the applicable boards shall reach a new agreement concerning the exemption before any of the boards adopts a resolution either approving or rejecting the renewal application.

The county auditor shall enter on the list of property described in section 5713.07 of the Revised Code that is exempt from taxation any qualifying agricultural real property that is the subject of an exemption under this section. An application shall not be required to be filed under section 5715.27 of the Revised Code with respect to the exemption. The county auditor shall remove the qualifying agricultural real property from the list at the time that the county auditor discovers or is notified under section 931.07 of the Revised Code that a withdrawal, removal, or conversion of land from an agricultural security area has occurred in a way that makes the qualifying agricultural real property no longer eligible for the exemption.

If the county auditor removes qualifying agricultural real property from the list of property that is exempt from taxation and the owner of the removed property claimed a tax exemption established under this section for a prior tax year, the amount of tax otherwise imposed on the qualifying agricultural real property that was the subject of the exemption shall be increased. The amount of the increase shall equal the aggregate value of the tax exemption received by the taxpayer under this section since the agricultural security area was most recently approved for establishment or renewal, as applicable, plus interest on that amount at the average bank prime rate, as determined under section 929.02 of the Revised Code, at the time that the county auditor removes the property from the list of property that is exempt from taxation. The tax year in which the increase shall occur is dependent upon the date on which the county auditor makes a discovery or is notified under section 931.07 of the Revised Code that a withdrawal, removal, or conversion of land from an agricultural security area has occurred. If the discovery or notification occurs prior to the date in a tax year on which the county auditor delivers a copy of the general tax list to the county treasurer under section 319.28 of the Revised Code, the increase shall occur in the same tax year that the discovery or notification occurred. If the discovery or notification occurs on or after the date in a tax year on

which the copy of the general tax list is delivered to the county treasurer, the increase shall occur in the tax year that immediately follows the year in which the discovery or notification occurred.

Sec. 5713.08. (A) The county auditor shall make a list of all real and personal property in the auditor's county, including money, credits, and investments in bonds, stocks, or otherwise, which is exempted from taxation. Such list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which such exemption has been granted. It shall be corrected annually by adding thereto the items of property which have been exempted during the year, and by striking therefrom the items which in the opinion of the auditor have lost their right of exemption and which have been reentered on the taxable list. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax commissioner as is provided for in section 5715.27 of the Revised Code or without the consent of the housing officer under section 3735.67 of the Revised Code, except for qualifying agricultural real property, as defined in section 5709.28 of the Revised Code, that is enrolled in an agriculture security area that is exempt under that section. When any personal property or endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not necessary to obtain the commissioner's consent to the exemption of additional property or investments of the same kind belonging to the same institution, but such property shall appear on the abstract filed annually with the commissioner. The commissioner may revise at any time the list in every county so that no property is improperly or illegally exempted from taxation. The auditor shall follow the orders of the commissioner given under this section. An abstract of such list shall be filed annually with the commissioner, on a form approved by the commissioner, and a copy thereof shall be kept on file in the office of each auditor for public inspection.

The commissioner shall not consider an application for exemption of property unless the application has attached thereto a certificate executed by the county treasurer certifying one of the following:

(1) That all taxes, assessments, interest, and penalties levied and assessed against the property sought to be exempted have been paid in full to the date upon which the application for exemption is filed, except for such taxes, interest, and penalties that may be remitted under division (B) of this section;

(2) That the applicant has entered into a valid delinquent tax contract with the county treasurer pursuant to division (A) of section 323.31 of the

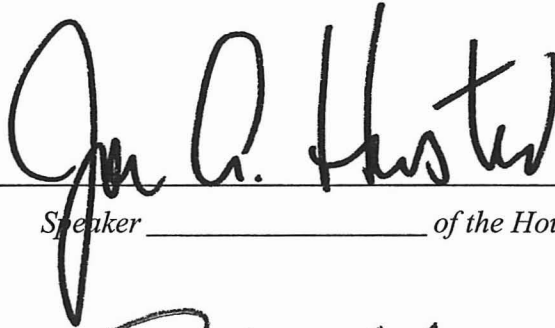
Revised Code to pay all of the delinquent taxes, assessments, interest, and penalties charged against the property, except for such taxes, interest, and penalties that may be remitted under division (B) of this section. If the auditor receives notice under section 323.31 of the Revised Code that such a written delinquent tax contract has become void, the auditor shall strike such property from the list of exempted property and reenter such property on the taxable list. If property is removed from the exempt list because a written delinquent tax contract has become void, current taxes shall first be extended against that property on the general tax list and duplicate of real and public utility property for the tax year in which the auditor receives the notice required by division (A) of section 323.31 of the Revised Code that the delinquent tax contract has become void or, if that notice is not timely made, for the tax year in which falls the latest date by which the treasurer is required by such section to give such notice. A county auditor shall not remove from any tax list and duplicate the amount of any unpaid delinquent taxes, assessments, interest, or penalties owed on property that is placed on the exempt list pursuant to this division.

(3) That a tax certificate has been issued under section 5721.32 or 5721.33 of the Revised Code with respect to the property that is the subject of the application, and the tax certificate is outstanding.

(B) Any taxes, interest, and penalties which have become a lien after the property was first used for the exempt purpose, but in no case prior to the date of acquisition of the title to the property by the applicant, may be remitted by the commissioner, except as is provided in division (A) of section 5713.081 of the Revised Code.

(C) Real property acquired by the state in fee simple is exempt from taxation from the date of acquisition of title or date of possession, whichever is the earlier date, provided that all taxes, interest, and penalties as provided in the apportionment provisions of section 319.20 of the Revised Code have been paid to the date of acquisition of title or date of possession by the state, whichever is earlier. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the year in which the property is acquired, shall be remitted by the county auditor for the balance of the year from date of acquisition of title or date of possession, whichever is earlier. This section shall not be construed to authorize the exemption of such property from taxation or the remission of taxes, interest, and penalties thereon until all private use has terminated.

SECTION 2. That existing sections 931.02, 931.03, 931.04, 931.99, 5709.28, and 5713.08 of the Revised Code are hereby repealed.



Speaker _____ *of the House of Representatives.*



President _____ *of the Senate.*

Passed April 8, 2008

Approved April 18, 2008



Governor.

Sub. H. B. No. 289

5094

127th G.A.

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

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 18 day of April, A. D. 2008.

James B. ...

Secretary of State.

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