

shall not exceed thirty-two cents per gallon. Only one sale of the same article shall be used in computing, reporting, and paying the amount of tax due. The tax may be levied for any number of years not exceeding twenty.

The tax shall be levied pursuant to a resolution of the board of county commissioners adopted as prescribed by division (A) of section 351.26 of the Revised Code and approved by a majority of the electors in the county voting on the question of levying the tax. The resolution shall specify the rates of the tax, the number of years the tax will be levied, and the purposes for which the tax is levied. Such election may be held on the date of a general or special election held not sooner than seventy-five days after the date the board certifies its resolution to the board of elections. If approved by the electors, the tax takes effect on the first day of the month specified in the resolution but not sooner than the first day of the month that is at least sixty days after the certification of the election results by the board of elections. A copy of the resolution levying the tax shall be certified to the division of liquor control and the tax commissioner at least sixty days prior to the date on which the tax is to become effective.

(B) A resolution under this section may be joined on the ballot as a single question with a resolution adopted under section 5743.026 of the Revised Code to levy a tax for the same purposes, and for the purpose of paying the expenses of administering that tax.

(C) The form of the ballot in an election held on the question of levying a tax proposed pursuant to this section shall be as prescribed by section 351.26 of the Revised Code.

(D) No tax shall be levied under this section on or after the effective date of the amendment of this section by the capital appropriations act of the 127th general assembly. This division does not prevent the collection of any tax levied under this section before that date so long as that tax remains effective.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;

(3) In any other public place;

(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-7, D-8, E, F, F-2, or F-5 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3)(a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4303.041. An A-3a permit may be issued to a distiller that manufactures less than ten thousand gallons of spirituous liquor per year. An A-3a permit holder may sell to a personal consumer, in sealed containers for consumption off the premises where manufactured, spirituous liquor that the permit holder manufactures, but sales to the personal consumer may occur only by an in-person transaction at the permit premises. The A-3a permit holder shall not ship, send, or use an H permit holder to deliver spirituous liquor to the personal consumer.

"Distiller" means a person in this state who mashes, ferments, distills, and ages spirituous liquor.

Not more than one A-3a permit may be issued per county and only in a county with a population exceeding eight hundred thousand.

An A-3a permit holder shall sell not more than one and one-half liters of spirituous liquor per day from the permit premises to the same personal consumer.

An A-3a permit holder may sell spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor under agreement, by virtue of the permit, with the division of liquor control. The price at which the A-3a permit holder shall sell each spirituous liquor product to a personal consumer is to be determined by the division of liquor control. For an A-3a permit holder to purchase and then offer spirituous liquor for retail sale, the spirituous liquor need not first leave the physical possession of the A-3a permit holder to be so registered. The spirituous liquor that the A-3a permit holder buys from the division of liquor control shall be maintained in a separate area of the permit premises for sale to personal consumers. The A-3a permit holder shall sell such spirituous liquor in sealed containers for consumption off the premises where manufactured as an independent contractor by virtue of the permit issued by the division of liquor control, but the permit holder shall not be compensated as provided in division (A)(1) of section 4301.17 of the Revised Code. Each A-3a permit holder shall be subject to audit by the division of liquor control.

The fee for the A-3a permit is three thousand nine hundred six dollars for each plant, but if the production capacity of a plant is less than five hundred wine barrels of fifty gallons each annually, the fee is two dollars per barrel.

The holder of an A-3a permit may also exercise the same privileges as the holder of an A-3 permit.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (J) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, A-3a, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit to allow sale under that permit between the hours of ten a.m. and midnight, or between the hours of one p.m. and midnight, on Sunday, as applicable, if that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code and under the restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public,

to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued

under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section 4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) Permit D-6 shall be issued to the holder of a D-5j permit for a permit premises that is located in a community entertainment district, as defined in section 4301.80 of the Revised Code, that was approved by the legislative authority of a municipal corporation under that section between October 1 and October 15, 2005, to allow sale under the permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(K) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods

and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

(L) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, A-3a, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4303.25. No person personally or by the person's clerk, agent, or employee shall manufacture, manufacture for sale, offer, keep, or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import, or cause to be transported or imported any beer, intoxicating liquor, or alcohol in or into this state for delivery, use, or sale, unless the person has fully complied with this chapter and Chapter 4301. of the Revised Code or is the holder of a permit issued by the division of liquor control and in force at the time.

The superintendent of liquor control may adopt rules requiring a person acting as an agent, solicitor, or salesperson for a manufacturer, supplier, broker, or wholesale distributor, who solicits permit holders authorized to deal in beer and intoxicating liquor, to be registered with the division and may cite the registrant to the liquor control commission for a violation of this chapter, Chapter 4301. of the Revised Code, or the rules adopted by the commission or superintendent.

~~No manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor, or other person shall employ, retain, or otherwise utilize any person in this state to act as an employee, agent, solicitor, or salesperson, or act in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by Chapter 4301. or 4303. of the Revised Code or rules adopted thereunder. No function, event, or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by Chapter 4301. or 4303. of the Revised Code or rules adopted thereunder.~~

Sec. 4510.10. (A) As used in this section, "reinstatement fees" means the fees that are required under section 4507.1612, 4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other provision of the Revised Code, or under a schedule established by the bureau of motor vehicles, in order to

The above boxed and initialed text was disapproved.

Date: June 14, 2008

Ted Strickland
Ted Strickland, Governor

reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of an offender under a suspension.

(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public safety through education, treatment, and other activities. The registrar of motor vehicles shall not reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of a person until the person has paid all reinstatement fees and has complied with all conditions for each suspension, cancellation, or disqualification incurred by that person.

(C) ~~Am~~ When a municipal court or county court determines in a pending case involving an offender that the offender cannot reasonably pay reinstatement fees due and owing by the offender relative to one or more suspensions that have been or will be imposed by the bureau of motor vehicles or by a court of this state, the court, by order, may undertake an installment payment plan or a payment extension plan for the payment of reinstatement fees due and owing to the bureau in that pending case. The court shall establish an installment payment plan or a payment extension plan under this division in accordance with the requirements of divisions (D)(1) and (2) of this section.

(D) Independent of the provisions of division (C) of this section, an offender who cannot reasonably pay reinstatement fees due and owing by the offender relative to a suspension that has been imposed on the offender may file a petition in the municipal court, county court, or, if the person is under the age of eighteen, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of this state, in the Franklin county municipal court or juvenile division of the Franklin county court of common pleas for an order that does either of the following, in order of preference:

(1) Establishes a reasonable payment plan of not less than fifty dollars per month, to be paid by the offender to the bureau of motor vehicles in all succeeding months until all reinstatement fees required of the offender are paid in full;

(2) If the offender, but for the payment of the reinstatement fees, otherwise would be entitled to operate a vehicle in this state or to obtain reinstatement of the offender's operating privileges, permits the offender to operate a motor vehicle, as authorized by the court, until a future date upon which date all reinstatement fees must be paid in full. A payment extension

granted under this division shall not exceed one hundred eighty days, and any operating privileges granted under this division shall be solely for the purpose of permitting the offender occupational or "family necessity" privileges in order to enable the offender to reasonably acquire the delinquent reinstatement fees due and owing.

~~(D)~~(E) If a municipal court, county court, or juvenile division enters an order of the type described in division (C) or division (D)(1) or (2) of this section, the court, at any time after the issuance of the order, may determine that a change of circumstances has occurred and may amend the order as justice requires, provided that the amended order also shall be an order that is permitted under division (C) or division (D)(1) or (2) of this section.

~~(E)~~(F) If a court enters an order of the type described in division (C), (D)(1), ~~(C)~~(D)(2), or ~~(D)~~(E) of this section, during the pendency of the order, the offender in relation to whom it applies is not subject to prosecution for failing to pay the reinstatement fees covered by the order.

~~(F)~~(G) Reinstatement fees are debts that may be discharged in bankruptcy.

Sec. 4511.01. As used in this chapter and in Chapter 4513. of the Revised Code:

(A) "Vehicle" means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

(B) "Motor vehicle" means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including, but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter,"

or "motorcycle" without regard to weight or brake horsepower.

(D) "Emergency vehicle" means emergency vehicles of municipal, township, or county departments or public utility corporations when identified as such as required by law, the director of public safety, or local authorities, and motor vehicles when commandeered by a police officer.

(E) "Public safety vehicle" means any of the following:

(1) Ambulances, including private ambulance companies under contract to a municipal corporation, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under section 4503.49 of the Revised Code;

(2) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state;

(3) Any motor vehicle when properly identified as required by the director of public safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The state fire marshal shall be designated by the director of public safety as the certifying agency for all public safety vehicles described in division (E)(3) of this section.

(4) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the director of public safety.

Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.

(5) Vehicles used by the motor carrier enforcement unit for the enforcement of orders and rules of the public utilities commission as specified in section 5503.34 of the Revised Code.

(F) "School bus" means every bus designed for carrying more than nine passengers that is owned by a public, private, or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function, provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipal

corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, nor a common passenger carrier certified by the public utilities commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child day-care center or type A family day-care home to transport children from the child day-care center or type A family day-care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time.

(G) "Bicycle" means every device, other than a tricycle designed solely for use as a play vehicle by a child, propelled solely by human power upon which any person may ride having either two tandem wheels, or one wheel in the front and two wheels in the rear, any of which is more than fourteen inches in diameter.

(H) "Motorized bicycle" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled and is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(I) "Commercial tractor" means every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles, or load thereon, or both.

(J) "Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes.

(K) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property.

(L) "Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement, and every motor vehicle, automobile for hire, or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.

(M) "Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a "semitrailer" and a vehicle of the dolly type, such as that

commonly known as a "trailer dolly," a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour, and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour.

(N) "Semitrailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle.

(O) "Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(P) "Railroad" means a carrier of persons or property operating upon rails placed principally on a private right-of-way.

(Q) "Railroad train" means a steam engine or an electric or other motor, with or without cars coupled thereto, operated by a railroad.

(R) "Streetcar" means a car, other than a railroad train, for transporting persons or property, operated upon rails principally within a street or highway.

(S) "Trackless trolley" means every car that collects its power from overhead electric trolley wires and that is not operated upon rails or tracks.

(T) "Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb. Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature, or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb, or property by fire, by friction, by concussion, by percussion, or by a detonator, such as fixed ammunition for small arms, firecrackers, or safety

fuse matches.

(U) "Flammable liquid" means any liquid that has a flash point of seventy degrees fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device.

(V) "Gross weight" means the weight of a vehicle plus the weight of any load thereon.

(W) "Person" means every natural person, firm, co-partnership, association, or corporation.

(X) "Pedestrian" means any natural person afoot.

(Y) "Driver or operator" means every person who drives or is in actual physical control of a vehicle, trackless trolley, or streetcar.

(Z) "Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.

(AA) "Local authorities" means every county, municipal, and other local board or body having authority to adopt police regulations under the constitution and laws of this state.

(BB) "Street" or "highway" means the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

(CC) "Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway.

(DD) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

(EE) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, except the berm or shoulder. If a highway includes two or more separate roadways the term "roadway" means any such roadway separately but not all such roadways collectively.

(FF) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(GG) "Laned highway" means a highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

(HH) "Through highway" means every street or highway as provided in section 4511.65 of the Revised Code.

(II) "State highway" means a highway under the jurisdiction of the department of transportation, outside the limits of municipal corporations,

provided that the authority conferred upon the director of transportation in section 5511.01 of the Revised Code to erect state highway route markers and signs directing traffic shall not be modified by sections 4511.01 to 4511.79 and 4511.99 of the Revised Code.

(JJ) "State route" means every highway that is designated with an official state route number and so marked.

(KK) "Intersection" means:

(1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If an intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(3) The junction of an alley with a street or highway, or with another alley, shall not constitute an intersection.

(LL) "Crosswalk" means:

(1) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;

(2) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) Notwithstanding divisions (LL)(1) and (2) of this section, there shall not be a crosswalk where local authorities have placed signs indicating no crossing.

(MM) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times.

(NN) "Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections within municipal corporations where fifty per cent or more of the frontage between such successive intersections is occupied by buildings in use for business, or within or outside municipal corporations where fifty per cent or more of the frontage for a distance of three hundred feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices.

(OO) "Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of three hundred feet or more, the frontage is improved with residences or residences and buildings in use for business.

(PP) "Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices.

(QQ) "Traffic control devices" means all flaggers, signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, including signs denoting names of streets and highways.

(RR) "Traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop, to proceed, to change direction, or not to change direction.

(SS) "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(TT) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, trackless trolleys, and other devices, either singly or together, while using any highway for purposes of travel.

(UU) "Right-of-way" means either of the following, as the context requires:

(1) The right of a vehicle, streetcar, trackless trolley, or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle, streetcar, trackless trolley, or pedestrian approaching from a different direction into its or the individual's path;

(2) A general term denoting land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right-of-way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the state or local authority.

(VV) "Rural mail delivery vehicle" means every vehicle used to deliver United States mail on a rural mail delivery route.

(WW) "Funeral escort vehicle" means any motor vehicle, including a funeral hearse, while used to facilitate the movement of a funeral procession.

(XX) "Alley" means a street or highway intended to provide access to

the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by the legislative authority of the municipal corporation in which such street or highway is located.

(YY) "Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.

(ZZ) "Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty per cent of all crossroads separated in grade.

(AAA) "Thruway" means a through highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited.

(BBB) "Stop intersection" means any intersection at one or more entrances of which stop signs are erected.

(CCC) "Arterial street" means any United States or state numbered route, controlled access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

(DDD) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(EEE) "Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour.

(FFF) "Child day-care center" and "type A family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(GGG) "Multi-wheel agricultural tractor" means a type of agricultural tractor that has two or more wheels or tires on each side of one axle at the rear of the tractor, is designed or used for drawing other vehicles or wheeled machinery, has no provision for carrying loads independently of the drawn vehicles or machinery, and is used principally for agricultural purposes.

(HHH) "Operate" means to cause or have caused movement of a vehicle, streetcar, or trackless trolley.

(III) "Predicate motor vehicle or traffic offense" means any of the following:

(1) A violation of section 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44,

4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78, or 4511.84 of the Revised Code;

(2) A violation of division (A)(2) of section 4511.17, divisions (A) to (D) of section 4511.51, or division (A) of section 4511.74 of the Revised Code;

(3) A violation of any provision of sections 4511.01 to 4511.76 of the Revised Code for which no penalty otherwise is provided in the section that contains the provision violated;

(4) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in division (III)(1), (2), or (3) of this section.

Sec. 4511.101. (A) The director of transportation, in accordance with 23 U.S.C.A. 109(d), 131(f), and 315, as amended, shall establish a program for the placement of business logos for identification purposes on state directional signs within the rights-of-way of divided, multi-lane, limited access highways in both rural and urban areas.

(B)(1) The director shall establish, and may revise at any time, a fee for participation in the business logo sign program. All direct and indirect costs of the business logo sign program established pursuant to this section shall be fully paid by the businesses applying for participation in the program. ~~At any interchange where a business logo sign is erected, such costs shall be divided equally among the participating businesses.~~ The direct and indirect costs of the program shall include, but not be limited to, the cost of capital, directional signs, blanks, posts, logos, installation, repair, engineering, design, insurance, removal, replacement, and administration. ~~Nothing~~

(2) Money generated from participating businesses in excess of the direct and indirect costs and any reasonable profit earned by a person awarded a contract under division (C) of this section shall be remitted to the department of public safety, which shall deposit the money into the state treasury to the credit of the state highway safety fund created in section 4501.06 of the Revised Code to provide money for the operating expenses of the state highway patrol.

(3) Nothing in this chapter shall be construed to prohibit the director from establishing such a program. If the department operates such a program and does not contract with a private person to operate it, all money collected from participating businesses shall be deposited and credited as prescribed in division (B)(2) of this section.

The above boxed and initialed text was disapproved.

Date: June 24, 2008

Ted Strickland
Ted Strickland, Governor

(C) The director, in accordance with rules adopted pursuant to Chapter 119. of the Revised Code, may contract with any private person to operate, maintain, ~~and~~ or market the business logo sign program. The ~~rules shall describe the terms of the contract, and shall~~ may allow for a reasonable profit to be earned by the successful applicant. In awarding the contract, the director shall consider the skill, expertise, prior experience, and other qualifications of each applicant.

(D) As used in this section, "urban area" means an area having a population of fifty thousand or more according to the most recent federal census and designated as such on urban maps prepared by the department.

(E) ~~Neither~~ In implementing this section, neither the department nor the director shall do either of the following:

(1) Limit the right of any person to erect, maintain, repair, remove, or utilize any off-premises or on-premises advertising device;

(2) Make participation in the business logo sign program conditional upon a business agreeing to limit, discontinue, withdraw, modify, alter, or change any advertising or sign.

(F) The program shall permit the business logo signs of a seller of motor vehicle fuel to include on the seller's signs a marking or symbol indicating that the seller sells one or more types of alternative fuel so long as the seller in fact sells that fuel.

As used in this division, "alternative fuel" has the same meaning as in section 125.831 of the Revised Code.

Sec. 4511.181. As used in sections 4511.181 to 4511.197 of the Revised Code:

(A) "Equivalent offense" means any of the following:

(1) A violation of division (A) or (B) of section 4511.19 of the Revised Code;

(2) A violation of a municipal OVI ordinance;

(3) A violation of section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section;

(4) A violation of division (A)(1) of section 2903.06 or 2903.08 of the Revised Code or a municipal ordinance that is substantially equivalent to either of those divisions;

(5) A violation of division (A)(2), (3), or (4) of section 2903.06, division (A)(2) of section 2903.08, or former section 2903.07 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a

drug of abuse, or a combination of them;

(6) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of section 4511.19 of the Revised Code;

(7) A violation of a former law of this state that was substantially equivalent to division (A) or (B) of section 4511.19 of the Revised Code.

(B) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under division (G)(1)(a), (b), or (c) of section 4511.19 of the Revised Code upon an offender convicted of a violation of division (A) of that section and in relation to which all of the following apply:

(1) Except as specifically authorized under section 4511.19 of the Revised Code, the term must be served in a jail.

(2) Except as specifically authorized under section 4511.19 of the Revised Code, the term cannot be suspended, reduced, or otherwise modified pursuant to sections 2929.21 to 2929.28 or any other provision of the Revised Code.

(C) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(D) "Community residential sanction," "continuous alcohol monitoring," "jail," "mandatory prison term," "mandatory term of local incarceration," "sanction," and "prison term" have the same meanings as in section 2929.01 of the Revised Code.

(E) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's

conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of

section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance

specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension

or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions

(F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued

use of an ~~electronic continuous~~ alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public

schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit

into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund and that portion of the additional court cost that is imposed under section 2949.094 of the Revised Code and that is specified by that section for deposit into the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) ~~If the~~ Regarding a suspension in question was imposed under this section or additional court costs, that portion of the fee shall be deposited as follows:

(i) If the fee or court cost is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee or court cost is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee or court cost is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) ~~If the~~ Regarding a suspension in question was imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be

deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general

assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an ~~electronic continuous~~ alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing ~~electronic continuous~~ alcohol monitoring devices to be used in conjunction with division (H)(3) of this section.

Sec. 4511.53. (A) For purposes of this section, "snowmobile" has the same meaning as given that term in section 4519.01 of the Revised Code.

(B) ~~A No person operating a bicycle shall not ride other than upon or astride the permanent and regular seat attached thereto, and a person operating a motorcycle shall not ride other than upon the permanent and regular seat attached thereto, nor or~~ carry any other person upon such bicycle ~~or motorcycle~~ other than upon a firmly attached and regular seat thereon, ~~nor shall any~~ and no person shall ride upon a bicycle ~~or motorcycle~~ other than upon such a firmly attached and regular seat.

No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

A No person shall ride upon a motorcycle only that is equipped with a saddle other than while sitting astride the ~~seat~~ saddle, facing forward, with one leg on each side of the motorcycle.

No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

No person operating a bicycle shall carry any package, bundle, or article that prevents the driver from keeping at least one hand upon the handle bars.

No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped, nor shall any motorcycle be operated on a highway when the handle bars or grips are more than fifteen inches higher than the seat or saddle for the operator.

No person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. No person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing a "novice" designation that is currently in effect as provided in section 4507.13 of the Revised Code, shall operate a motorcycle on a highway, or be a passenger on a motorcycle,

unless wearing a protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with regulations prescribed and promulgated by the director of public safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action.

(C) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code, ~~and~~ the disability medical assistance program established under Chapter 5115. of the Revised Code, and the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and 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 this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board

and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code ~~or~~, the disability medical assistance program established under Chapter 5115. of the Revised Code, or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code, the auditor of state also shall report the amount to the department of ~~commerce~~ job and family services.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for

such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or

with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(1) With reference to real estate situated in this state or any interest in it owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(2) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument creating a like bona fide fiduciary obligation;

(3) As a public officer while performing the officer's official duties;

(4) As an attorney at law in the performance of the attorney's duties;

(5) As a person who engages in the brokering of the sale of business assets, not including the negotiation of the sale, lease, exchange, or assignment of any interest in real estate;

(6) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(7) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(J) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, voluntary hold, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

(Y) "Voluntary hold" means the license status in which a license is in

the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(Z) "Resigned" means the license status in which a license has been voluntarily surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

Sec. 4735.02. Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, placed on voluntary hold, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive, voluntary hold, or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

- (a) The form and manner of filing applications for license;
- (b) Times and form of examination for license;
- (c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;
- (d) Specifying the process by which a licensee may place the licensee's license on voluntary hold or resigned status;
- (e) Defining any additional license status that the commission

determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) By not later than January 1, 2004, a three-year license and a three-year license renewal system;

(c) Standards for the approval of courses of study required for licenses, or offered in preparation for license examinations, or required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and

corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses on deposit and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.13. (A) The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a

real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee who is convicted of a felony or a crime involving moral turpitude or of violating any federal, state, or municipal civil rights law pertaining to discrimination in housing, or any court that issues a finding of an unlawful discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code or that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination, shall notify the superintendent of the conviction or finding within fifteen days. If a licensee fails to notify the superintendent within the required time, the superintendent immediately may revoke the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice in writing to the superintendent, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. Four dollars of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate

broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. Four dollars of the fee shall be credited to the real estate education and research fund.

No real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is a licensed real estate broker shall perform any acts as a real estate broker other than as the agent of the partnership, association, limited liability company, limited liability partnership, or corporation, and such broker shall not have any real estate salespersons associated with the broker.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's discharge. The commission shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may

process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, voluntary hold, or resigned status, is revoked, or suspended, or such license expires by operation of law.

(B) ~~Each~~ Except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent to the most current personal residence address of each broker or salesperson as filed with the superintendent by the licensee and the place of business address of the brokerage two months prior to the filing deadline.

(C) ~~The~~ Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive, voluntary hold, or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the commission of a change in personal residence address. A licensee's failure to notify the commission of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee is not in compliance with this chapter.

Sec. 4735.141. (A) Except as otherwise provided in this division and

except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any physically handicapped licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such

license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(1) That broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated.

(2) The superintendent then reactivates the broker's license as a real estate broker.

(3) The associated real estate salesperson intends to continue to be associated with that broker, has complied with the requirements of this section, and otherwise is in compliance with this chapter.

Any person whose license is reactivated pursuant to this division shall submit proof satisfactory to the superintendent that the person has completed thirty hours of continuing education, as prescribed by the Ohio real estate commission, on or before the third year following the licensee's birthday occurring immediately after reactivation.

(E) Any licensee who is a physically handicapped licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a physically handicapped licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the physical disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the physical disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the

physical disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the physical disability. A licensee granted an extension pursuant to this division who is no longer a physically handicapped licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license on voluntary hold or a resigned status.

(B) If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division (A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:

(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;

(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;

(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.

(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to

obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.

(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (G) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to a request made under this division wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(E) If placing a broker's license on voluntary hold or a resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license on voluntary hold or a resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(F) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4752.04. A person seeking a license to provide home medical equipment services shall apply to the Ohio respiratory care board on a form the board shall prescribe and provide. The application must be accompanied by the license application fee established in rules adopted under section 4752.17 of the Revised Code and, except that the board may waive all or part of the fee if the board determines that an applicant's license will be issued in the last six months of the biennial licensing period established under section 4752.05 of the Revised Code.

In the application, the applicant shall specify the name and location of the facility from which services will be provided.

Sec. 4752.05. (A) The Ohio respiratory care board shall issue a license to provide home medical equipment services to each applicant under section 4752.04 of the Revised Code that meets either of the following requirements:

(1) Meets the standards established by the board in rules adopted under

section 4752.17 of the Revised Code;

(2) Is a pharmacy licensed under Chapter 4729. of the Revised Code that receives total payments of ten thousand dollars or more per year from selling or renting home medical equipment.

(B) During the period ending one year after ~~the effective date of this section~~ September 16, 2004, an applicant that does not meet either of the requirements of division (A) of this section shall be granted a provisional license if for at least twelve months prior to ~~the effective date of this section~~ September 16, 2004 the applicant was engaged in the business of providing home medical equipment services. The provisional license expires one year following the date on which it is issued and is not subject to renewal under section 4752.06 of the Revised Code.

(C) The board may conduct a personal interview of an applicant, or an applicant's representative, to determine the applicant's qualifications for licensure.

(D) A license issued under division (A) of this section ~~is valid from the day it is issued until the thirtieth day of June that immediately follows the date of issue. Thereafter a license is valid only if it is~~ expires at the end of the licensing period for which it is issued and may be renewed in accordance with section 4752.06 of the Revised Code biennially on or before the thirtieth day of June. For purposes of issuing and renewing licenses, the board shall use a biennial licensing period that begins on the first day of July of each even-numbered year and ends on the thirtieth day of June of the next succeeding even-numbered year.

(E) Any license issued under this section is valid only for the facility named in the application.

Sec. 4752.06. Except for a provisional license issued under section 4752.05 of the Revised Code, a license issued under this chapter shall be renewed by the Ohio respiratory care board if the license holder is in compliance with the applicable requirements of this chapter.

An application for license renewal shall be accompanied by the renewal fee established in rules adopted under section 4752.17 of the Revised Code and except as provided in division (B) of section 4752.07 of the Revised Code, by documentation satisfactory to the board that the continuing education requirements of section 4752.07 of the Revised Code have been met. Renewals shall be made in accordance with the standard renewal procedure established under Chapter 4745. of the Revised Code and the renewal procedures established in rules adopted under section 4752.17 of the Revised Code.

Sec. 4752.07. (A) The holder of a license issued under this chapter shall

do all of the following:

~~(A)~~(1) Maintain a physical facility and a medical equipment inventory;
~~(B)~~(2) Establish equipment management and personnel policies;
~~(C)~~(3) Provide life-sustaining home medical equipment, as described in division (B)(1) of section 4752.01 of the Revised Code, and related home medical equipment services twenty-four hours per day, seven days per week;

~~(D)~~ Require (4) Except as provided in division (B) of this section, require persons in its employ or under its control who provide home medical equipment services to successfully complete continuing education programs in home medical equipment services that meet the standards established by rule adopted under section 4752.17 of the Revised Code and maintain records on participation in those programs;

~~(E)~~(5) Maintain records on all individuals to whom it provides home medical equipment and services;

~~(F)~~(6) Maintain liability insurance, including coverage for professional and products liability;

~~(G)~~(7) Comply with all other requirements established by rule adopted under section 4752.17 of the Revised Code that apply to persons licensed under this chapter.

(B) For the first renewal of a license that was issued in the last six months of the biennial licensing period established under section 4752.05 of the Revised Code, the board may waive all or part of the continuing education requirements that otherwise would have to be met to renew the license under section 4752.06 of the Revised Code.

Sec. 4752.11. (A) A person seeking a certificate of registration to provide home medical equipment services shall apply to the Ohio respiratory care board on a form the board shall prescribe and provide. The application must be accompanied by the registration fee established in rules adopted under section 4752.17 of the Revised Code, except that the board may waive all or part of the fee if the board determines that an applicant's certificate of registration will be issued in the last six months of the biennial registration period established under section 4752.12 of the Revised Code.

(B) The applicant shall specify in the application all of the following:

- (1) The name of the facility from which services will be provided;
- (2) The facility's address;
- (3) The facility's telephone number;
- (4) A person who may be contacted with regard to the facility;
- (5) The name of the national accrediting body that issued the accreditation on which the application is based;

(6) The applicant's accreditation number and the expiration date of the accreditation;

(7) A telephone number that may be used twenty-four hours a day, seven days a week, to obtain information related to the facility's provision of home medical equipment services.

Sec. 4752.12. (A) The Ohio respiratory care board shall issue a certificate of registration to provide home medical equipment services to each applicant who submits a complete application under section 4752.11 of the Revised Code. For purposes of this division, an application is complete only if the board finds that the applicant holds accreditation from the joint commission on accreditation of healthcare organizations or another national accrediting body recognized by the board, as specified in rules adopted under section 4752.17 of the Revised Code.

(B) A certificate of registration issued under this section ~~is valid from the day it is issued until the thirtieth day of June that immediately follows the date of issue. Thereafter, a certificate of registration is valid only if it expires at the end of the registration period for which it is issued and may be renewed in accordance with section 4752.13 of the Revised Code biennially on or before the thirtieth day of June. For purposes of renewing certificates of registration, the board shall use a biennial registration period that begins on the first day of July of each even-numbered year and ends on the thirtieth day of June of the next succeeding even-numbered year.~~

(C) A certificate of registration issued under this section is valid only for the facility named in the application.

Sec. 4752.13. A certificate of registration issued under this chapter shall be renewed by the Ohio respiratory care board if the certificate holder is accredited by the joint commission on accreditation of healthcare organizations or another national accrediting body recognized by the board, as specified in rules adopted under section 4752.17 of the Revised Code.

An application for renewal of a certificate of registration shall be accompanied by the renewal fee established in rules adopted under section 4752.17 of the Revised Code. Renewals shall be made in accordance with the standard renewal procedure established under Chapter 4745. of the Revised Code and the renewal procedures established in rules adopted under section 4752.17 of the Revised Code.

Sec. 4905.84. (A) As used in this section:

(1) "Telecommunications relay service" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability

of an individual who does not have a hearing or speech impairment to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

(2) "TRS provider" means an entity selected by the public utilities commission as the provider of telecommunications relay service for this state as part of the commission's intrastate telecommunications relay service program certified pursuant to federal law.

(B) For the sole purpose of funding telecommunications relay service, the commission shall, not earlier than January 1, 2009, impose on and collect from each service provider that is required under federal law to provide its customers access to telecommunications relay service an annual assessment to pay for costs incurred by the TRS provider for providing such service in Ohio. The commission shall determine the appropriate service providers to be assessed the telecommunications relay service costs, including telephone companies as defined in division (A)(2) of section 4905.03 of the Revised Code, commercial mobile radio service providers, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to basic local exchange service as defined in section 4927.01 of the Revised Code.

(C) The assessment shall be allocated proportionately among the appropriate service providers using a competitively neutral formula established by the commission based on the number of retail intrastate customer access lines or their equivalent. The commission shall annually reconcile the funds collected with the actual costs of providing telecommunications relay service when it issues the assessment and shall either proportionately charge the service providers for any amounts not sufficient to cover the actual costs or proportionately credit amounts collected in excess of the actual costs. The total amount assessed from all service providers shall not exceed the total telecommunications relay service costs.

Each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of recovery may include, but is not limited to, a customer billing surcharge.

The commission shall deposit the money collected in the telecommunications relay service fund, which is hereby created in the state treasury, and shall use the money in that fund solely to compensate the TRS provider.

(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment.

(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. The commission may adopt such rules as it finds necessary to carry out this section. The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures.

Sec. 4906.13. (A) As used in this section and sections 4906.20 and 4906.98 of the Revised Code, "economically significant wind farm" means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of five or more megawatts but less than fifty megawatts. The term excludes any such wind farm in operation on the effective date of this section.

(B) No public agency or political subdivision of this state may require any approval, consent, permit, certificate, or other condition for the construction or initial operation of a major utility facility or economically significant wind farm authorized by a certificate issued pursuant to Chapter 4906. of the Revised Code. Nothing herein shall prevent the application of state laws for the protection of employees engaged in the construction of such facility or wind farm nor of municipal regulations that do not pertain to the location or design of, or pollution control and abatement standards for, a major utility facility or economically significant wind farm for which a certificate has been granted under this chapter.

Sec. 4906.20. (A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

(B) The board shall adopt rules governing the certificating of

economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after this section's effective date.

(1) The rules shall provide for an application process for certifying economically significant wind farms that is identical to the extent practicable to the process applicable to certifying major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.11, and 4906.12 of the Revised Code and shall prescribe a reasonable schedule of application filing fees structured in the manner of the schedule of filing fees required for major utility facilities.

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear, shadow flicker, decommissioning, and necessary cooperation for site visits and enforcement investigations. The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least seven hundred fifty feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time of the certification application. The setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waive application of the setback to that property pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary.

(C) The board shall approve, or may modify and approve, an application for economically significant wind farm certification if it finds that the construction, operation, and maintenance of the economically significant wind farm will comply with the rules adopted under division (B) of this section. The certificate shall be conditioned upon the economically significant wind farm complying with rules adopted under section 4561.32 of the Revised Code.

Sec. 4906.98. (A) No person shall construct a major utility facility or

economically significant wind farm without first obtaining a certificate.

(B) No person shall construct, operate, or maintain a major utility facility or economically significant wind farm other than in compliance with the certificate the person has obtained.

(C) No person or economically significant wind farm shall fail to comply with any order issued pursuant to this chapter or with a suspension otherwise required under division (B) of section 4906.97 of the Revised Code.

Sec. 4928.142. (A) For the purpose of complying with section 4928.141 of the Revised Code and subject to division (D) of this section and, as applicable, subject to the rate plan requirement of division (A) of section 4928.141 of the Revised Code, an electric distribution utility may establish a standard service offer price for retail electric generation service that is delivered to the utility under a market-rate offer.

(1) The market-rate offer shall be determined through a competitive bidding process that provides for all of the following:

- (a) Open, fair, and transparent competitive solicitation;
- (b) Clear product definition;
- (c) Standardized bid evaluation criteria;

(d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division (A)(1)(a) to (c) of this section are met;

(e) Evaluation of the submitted bids prior to the selection of the least-cost bid winner or winners.

No generation supplier shall be prohibited from participating in the bidding process.

(2) The public utilities commission shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process and shall be consistent with the requirements of division (A)(1) of this section.

(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A)(2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.

An application under this division shall detail the electric distribution utility's proposed compliance with the requirements of division (A)(1) of

this section and with commission rules under division (A)(2) of this section and demonstrate that all of the following requirements are met:

(1) The electric distribution utility or its transmission service affiliate belongs to at least one regional transmission organization that has been approved by the federal energy regulatory commission; or there otherwise is comparable and nondiscriminatory access to the electric transmission grid.

(2) Any such regional transmission organization has a market-monitor function and the ability to take actions to identify and mitigate market power or the electric distribution utility's market conduct; or a similar market monitoring function exists with commensurate ability to identify and monitor market conditions and mitigate conduct associated with the exercise of market power.

(3) A published source of information is available publicly or through subscription that identifies pricing information for traded electricity on- and off-peak energy products that are contracts for delivery beginning at least two years from the date of the publication and is updated on a regular basis.

The commission shall initiate a proceeding and, within ninety days after the application's filing date, shall determine by order whether the electric distribution utility and its market-rate offer meet all of the foregoing requirements. If the finding is positive, the electric distribution utility may initiate its competitive bidding process. If the finding is negative as to one or more requirements, the commission in the order shall direct the electric distribution utility regarding how any deficiency may be remedied in a timely manner to the commission's satisfaction; otherwise, the electric distribution utility shall withdraw the application. However, if such remedy is made and the subsequent finding is positive and also if the electric distribution utility made a simultaneous filing under this section and section 4928.143 of the Revised Code, the utility shall not initiate its competitive bid until at least one hundred fifty days after the filing date of those applications.

(C) Upon the completion of the competitive bidding process authorized by divisions (A) and (B) of this section, including for the purpose of division (D) of this section, the commission shall select the least-cost bid winner or winners of that process, and such selected bid or bids, as prescribed as retail rates by the commission, shall be the electric distribution utility's standard service offer unless the commission, by order issued before the third calendar day following the conclusion of the competitive bidding process for the market rate offer, determines that one or more of the following criteria were not met:

(1) Each portion of the bidding process was oversubscribed, such that

the amount of supply bid upon was greater than the amount of the load bid out.

(2) There were four or more bidders.

(3) At least twenty-five per cent of the load is bid upon by one or more persons other than the electric distribution utility.

All costs incurred by the electric distribution utility as a result of or related to the competitive bidding process or to procuring generation service to provide the standard service offer, including the costs of energy and capacity and the costs of all other products and services procured as a result of the competitive bidding process, shall be timely recovered through the standard service offer price, and, for that purpose, the commission shall approve a reconciliation mechanism, other recovery mechanism, or a combination of such mechanisms for the utility.

(D) The first application filed under this section by an electric distribution utility that, as of ~~the effective date of this section~~ July 31, 2008, directly owns, in whole or in part, operating electric generating facilities that had been used and useful in this state shall require that a portion of that utility's standard service offer load for the first five years of the market rate offer be competitively bid under division (A) of this section as follows: ten per cent of the load in year one ~~and~~, not ~~less~~ more than twenty per cent in year two, thirty per cent in year three, forty per cent in year four, and fifty per cent in year five. Consistent with those percentages, the commission shall determine the actual percentages for each year of years one through five. The standard service offer price for retail electric generation service under this first application shall be a proportionate blend of the bid price and the generation service price for the remaining standard service offer load, which latter price shall be equal to the electric distribution utility's most recent standard service offer price, adjusted upward or downward as the commission determines reasonable, relative to the jurisdictional portion of any known and measurable changes from the level of any one or more of the following costs as reflected in that most recent standard service offer price:

(1) The electric distribution utility's prudently incurred cost of fuel used to produce electricity;

(2) Its prudently incurred purchased power costs;

(3) Its prudently incurred costs of satisfying the supply and demand portfolio requirements of this state, including, but not limited to, renewable energy resource and energy efficiency requirements;

(4) Its costs prudently incurred to comply with environmental laws and regulations, with consideration of the derating of any facility associated with those costs.

In making any adjustment to the most recent standard service offer price on the basis of costs described in division (D) of this section, the commission shall include the benefits that may become available to the electric distribution utility as a result of or in connection with the costs included in the adjustment, including, but not limited to, the utility's receipt of emissions credits or its receipt of tax benefits or of other benefits, and, accordingly, the commission may impose such conditions on the adjustment to ensure that any such benefits are properly aligned with the associated cost responsibility. The commission shall also determine how such adjustments will affect the electric distribution utility's return on common equity that may be achieved by those adjustments. The commission shall not apply its consideration of the return on common equity to reduce any adjustments authorized under this division unless the adjustments will cause the electric distribution utility to earn a return on common equity that is significantly in excess of the return on common equity that is earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility.

Additionally, the commission may adjust the electric distribution utility's most recent standard service offer price by such just and reasonable amount that the commission determines necessary to address any emergency that threatens the utility's financial integrity or to ensure that the resulting revenue available to the utility for providing the standard service offer is not so inadequate as to result, directly or indirectly, in a taking of property without compensation pursuant to Section 19 of Article I, Ohio Constitution. The electric distribution utility has the burden of demonstrating that any adjustment to its most recent standard service offer price is proper in accordance with this division.

(E) Beginning in the second year of a blended price under division (D) of this section and notwithstanding any other requirement of this section, the commission may alter prospectively the proportions specified in that division to mitigate any effect of an abrupt or significant change in the electric distribution utility's standard service offer price that would otherwise result in general or with respect to any rate group or rate schedule but for such alteration. Any such alteration shall be made not more often than annually, and the commission shall not, by altering those proportions and in any event, including because of the length of time, as authorized under division (C) of this section, taken to approve the market rate offer, cause the duration of the blending period to exceed ten years as counted

from the effective date of the approved market rate offer. Additionally, any such alteration shall be limited to an alteration affecting the prospective proportions used during the blending period and shall not affect any blending proportion previously approved and applied by the commission under this division.

(F) An electric distribution utility that has received commission approval of its first application under division (C) of this section shall not, nor ever shall be authorized or required by the commission to, file an application under section 4928.143 of the Revised Code.

Sec. 4928.20. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, on or after the starting date of competitive retail electric service, it may aggregate in accordance with this section the retail electrical loads located, respectively, within the municipal corporation, township, or unincorporated area of the county and, for that purpose, may enter into service agreements to facilitate for those loads the sale and purchase of electricity. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For customers that are not mercantile customers, an ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior, affirmative consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this section. The aggregation of mercantile customers shall occur only with the prior, affirmative consent of each such person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this division, however, authorizes the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation of customers that are not mercantile customers will occur automatically as described in that division, the ordinance or resolution shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the

municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than seventy-five days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years, without paying a switching fee. Any such person that opts out before the commencement of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under section 4928.14 or division (D) of section 4928.35 of the Revised Code until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by

initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

- (1) A customer that has opted out of the aggregation;
- (2) A customer in contract with a certified electric services company;
- (3) A customer that has a special contract with an electric distribution utility;
- (4) A customer that is not located within the governmental aggregator's governmental boundaries;

(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.

(I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation's customers aggregation as an aggregated a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall

result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code.

(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(~~e~~)(d) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom ~~electricity is delivered~~ competitive retail electric generation service is provided by another supplier under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to serve that consumer plus any amount attributable to the utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve the consumer. Such market price shall include, but not be limited to, capacity and energy charges; all charges associated with the provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and alternative energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.

(K) The commission shall adopt rules to encourage and promote large-scale governmental aggregation in this state. For that purpose, the commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, that would be established under that

plan, except any nonbypassable generation ~~charge~~ charges that ~~relates~~ relate to ~~a~~ any cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.

Sec. 4981.14. (A) The Ohio rail development commission may exercise all powers necessary or appropriate to carry out its corporate purposes.

(B) The commission may do all of the following:

(1) Adopt, and from time to time, ratify, amend, and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules to implement and make effective its powers and duties;

(2) Adopt an official seal;

(3) Maintain a principal office in Columbus and, if necessary, regional sub-offices at locations properly designated or provided;

(4) Sue and be sued in its own name and plead and be impleaded in its own name, particularly to enforce the obligations and covenants made under this section and sections 4981.13, ~~4981.14~~, and 4981.29 of the Revised Code. Any actions against the commission shall be brought in the court of common pleas in Franklin county, in which the principal office of the commission shall be located.

(5) Undertake or cause to be undertaken the acquisition, renovation, repair, refunding, operation, maintenance, or construction of any rail service project;

(6) Establish and operate a revolving loan fund for the purpose of making loans to qualifying subdivisions, local or regional transportation authorities, or other persons for the acquisition, renovation, repair, refunding, or construction of rail service projects by such qualifying subdivisions, local or regional transportation authorities, and private corporations or organizations, and the repayment thereof from project financing proceeds and revenues; purchase the obligations of counties and municipal corporations issued for the acquisition, renovation, repair, or construction of rail service projects by such qualifying subdivisions and local or regional transportation authorities; and adopt rules and procedures for making those loans or purchasing those obligations;

(7) Issue bonds and notes and refunding obligations of the state, payable as provided in this chapter unless the bonds are refunded by refunding bonds, for the purpose of borrowing money to implement any power granted by divisions (B)(5) and (6) of this section for one or more rail service projects or parts thereof;

(8) Acquire by gift or purchase, hold, or dispose of real and personal

property in the exercise of its powers and performance of its duties as set forth in this chapter;

(9) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers and to employ natural persons to act on behalf of the commission, and to establish the terms and conditions of such employment;

(10) Receive and accept from any federal agency or other person, subject to the approval of the governor, grants for or in aid of the construction, repair, renovation, operation, maintenance, or acquisition of rail service projects, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(11) Purchase property coverage and liability insurance for any rail service project and for any offices of the commission, insurance protecting the commission and its officers and employees against liability, if any, or damage to property or injury to or death of persons arising from its operations, and any other insurance the commission may agree to provide under any resolution authorizing the issuance of bonds in accordance with sections 4981.11 to 4981.26 of the Revised Code, or in any trust agreement securing the same;

(12) Establish or increase reserves from moneys received or to be received by the commission to secure or pay the principal of and interest on bonds, notes, or other obligations issued by the commission pursuant to this chapter or other law. Moneys, funds, and accounts of the commission, however, are subject only to audit by the auditor of state and all moneys, funds, and accounts shall be held in custody or deposited as directed by resolution of the commission and unless otherwise provided by law all moneys of the commission not pledged to the holders of bonds of the commission shall be appropriated by the general assembly.

(13) Receive and disburse the proceeds of general obligation or other bonds of the state or agencies thereof as may be allowed by law pursuant to any resolution or act of the general assembly;

(14) To the extent permitted under its contracts with the holders of bonds or notes of the commission, consent to modification of the rate of interest, time and payment of installment of principal or interest, security, or any other term of a bond, contract, or agreement of any kind to which the commission is a party;

(15) Make grants to counties or municipal corporations, qualifying subdivisions, local or regional transportation authorities, or other persons for

one or more rail service projects ~~of~~ or parts thereof;

(16) Provide consultation services to any qualifying subdivision, local or regional transportation authority, or other person in connection with the acquisition, renovation, repair, or construction of any rail service project;

(17) Establish and amend the criteria and qualifications for the making of any loan to or the purchasing of any bond from any qualifying subdivision, local or regional transportation authority, or other person and the terms not inconsistent with this chapter of any loan or bond purchase agreement with any qualifying subdivision, local or regional transportation authority, or other person;

(18) Deposit money received from the repayment of loans and recoveries from the sale, lease, or other disposition of property acquired or constructed from amounts loaned by the commission pursuant to section 4981.13 of the Revised Code or division (B) of this section, in an account pledged to secure, and applied to the repayment, without the need for appropriation, of, obligations issued under section 166.08 of the Revised Code to pay the costs of property, facilities, or equipment that qualifies as rail service projects; enter into agreements with the treasurer of state or a corporate trustee for such obligations to provide for the deposit and pledge of such money as specified in the agreement, to permit the withdrawal of money by the treasurer of state or corporate trustee from the account as necessary for application to the payment of debt service on such obligations, and to permit the investment of those amounts, without regard to Chapter 131, or 135, of the Revised Code, pending their application to the payment of debt service; and enter into agreements with persons to provide for the repayment of any amounts paid from any pledged account in connection with obligations issued under section 166.08 of the Revised Code;

(19) Do all acts necessary and proper to carry out the powers expressly granted to the commission in this chapter.

(C) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 5101.143. (A) The state adoption assistance loan fund is hereby created in the state treasury. The fund shall consist of all money appropriated or transferred to it and all loan repayments or other money, including interest and penalties, derived from state adoption assistance loans. The department of job and family services shall administer the fund. Money in the fund shall be used to make state adoption assistance loans to prospective adoptive parents applying for a loan under section 3107.018 of the Revised Code. All investment earnings of the fund shall be credited to

the fund.

(B) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section, including rules for creating a loan application form, procedures and standards for reviewing and granting or denying loan applications, conditions on the use of the loan, loan repayment terms, procedures for collection of loan arrearages, and any monetary penalties for loan arrearages or improper use of loan funds.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance provided under a public assistance program" means medical assistance provided under the programs established under sections 5101.49, 5101.50 to 5101.503, 5101.51 to 5101.5110, ~~and~~ 5101.52 to 5101.529, and 5101.5211 to 5101.5216, Chapters 5111. and 5115., or any other provision of the Revised Code.

(F) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an

executive order issued under section 107.17 of the Revised Code.

(G) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.5211. (A) As used in sections 5101.5211 to 5101.5216 of the Revised Code:

"Children's buy-in program" means the program established under sections 5101.5211 to 5101.5216 of the Revised Code.

"Countable family income" has the meaning established in rules adopted under section 5101.5215 of the Revised Code.

"Creditable coverage" has the same meaning as in 42 U.S.C. 300gg(c)(1), except that it does not mean medical assistance available under the children's buy-in program or the program for medically handicapped children.

"Family" has the meaning established in rules adopted under section 5101.5215 of the Revised Code.

"Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

"Program for medically handicapped children" means the program established under sections 3701.021 to 3701.0210 of the Revised Code.

(B) The director of job and family services shall establish the children's buy-in program in accordance with sections 5101.5211 to 5101.5216 of the Revised Code. The director shall submit to the United States secretary of health and human services an amendment to the state medicaid plan, an amendment to the state child health plan, one or more requests for a federal waiver, or such an amendment and waiver requests as necessary to seek federal matching funds for the children's buy-in program. The director shall not begin implementation of the program until after submitting the amendment, waiver request, or both. The director may begin implementation of the program before receiving approval of the amendment, waiver request, or both using state funds only. The director shall implement the program regardless of whether the amendment, waiver request, or both are denied. The program shall be funded with state funds only if the United States secretary denies federal matching funds for the program. If the United States secretary approves federal matching funds for the program and if permitted under the terms of the approval, the program shall be operated as part of the medicaid program, the children's health insurance program, or both.

Sec. 5101.5212. Under the children's buy-in program and subject to section 5101.5213 of the Revised Code, an individual who does both of the following in accordance with rules adopted under section 5101.5215 of the

Revised Code qualifies for medical assistance under the program, unless the director of job and family services has adopted rules under division (B) of section 5101.5215 of the Revised Code to limit the number of individuals who may participate in the program at one time and the program is serving the maximum number of individuals specified in the rules:

- (A) Applies for the children's buy-in program;
- (B) Provides satisfactory evidence of all of the following:
 - (1) That the individual is under nineteen years of age;
 - (2) That the individual's countable family income exceeds ~~three~~ two hundred fifty per cent of the federal poverty guidelines;
 - (3) That the individual has not had creditable coverage for at least six months before enrolling in the children's buy-in program, unless the individual lost the only creditable coverage available to the individual because the individual exhausted a lifetime benefit limitation;
 - (4) That one or more of the following apply to the individual:
 - (a) The individual is unable to obtain creditable coverage due to a pre-existing condition of the individual;
 - (b) The individual lost the only creditable coverage available to the individual because the individual has exhausted a lifetime benefit limitation;
 - (c) The premium for the only creditable coverage available to the individual is greater than two hundred per cent of the premium applicable to the individual under the children's buy-in program;
 - (d) The individual participates in the program for medically handicapped children.
 - (5) That the individual meets the additional eligibility requirements for the children's buy-in program established in rules adopted under section 5101.5215 of the Revised Code.

Sec. 5101.5213. (A) An individual participating in the children's buy-in program shall be charged a monthly premium established by rules adopted under section 5101.5215 of the Revised Code. The amount of the monthly premium shall not be less than the following:

- (1) In the case of an individual with countable family income exceeding ~~three~~ two hundred fifty per cent but not exceeding four hundred per cent of the federal poverty guidelines, the following amount:
 - (a) If no other member of the individual's family receives medical assistance under the program with the individual, one hundred dollars;
 - (b) If one or more members of the individual's family receive medical assistance under the program with the individual, one hundred fifty dollars.
- (2) In the case of an individual with countable family income exceeding four hundred per cent but not exceeding five hundred per cent of the federal

poverty guidelines, the following amount:

(a) If no other member of the individual's family receives medical assistance under the program with the individual, one hundred twenty-five dollars;

(b) If one or more members of the individual's family receive medical assistance under the program with the individual, one hundred seventy-five dollars.

(3) In the case of an individual with countable family income exceeding five hundred per cent of the federal poverty guidelines, the full amount of the actuarially determined cost of the premium.

(B) If the premium for the children's buy-in program is not paid for two consecutive months, the individual shall lose eligibility for the program. The individual may not resume participation in the program until the unpaid premiums that accrued before the individual lost eligibility are paid.

Sec. 5101.5214. (A) An individual participating in the children's buy-in program ~~may shall~~ be charged co-payments ~~to the extent required established~~ by rules, ~~if any~~, adopted under ~~division (B)~~ of section 5101.5215 of the Revised Code.

(B) Notwithstanding division (B) of section 5111.0112 of the Revised Code, if applicable, and to the extent permitted by federal law, a provider may refuse to provide a service to an individual if a co-payment ~~authorized required~~ by this section is not paid.

Sec. 5101.5215. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the children's buy-in program, including rules that do all of the following:

(1) Establish the meaning of "countable family income" and "family";

(2) For the purpose of section 5101.5212 of the Revised Code, establish additional eligibility requirements for the program;

(3) For the purpose of section 5101.5213 of the Revised Code, establish monthly premiums for the children's buy-in program;

(4) For the purpose of section 5101.5214 of the Revised Code, establish copayment requirements for the children's buy-in program.

(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code to ~~establish co-payment requirements for~~ limit the number of individuals ~~participating~~ who may participate in the children's buy-in program at one time.

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code:

(A) "Information" means all of the following:

(1) An individual's name, address, date of birth, and social security number;

(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage;

(3) Any other data the director of job and family services specifies in rules adopted under section 5101.591 of the Revised Code.

(B) "Medical assistance" means medical items or services provided under any of the following:

(1) Medicaid, as defined in section 5111.01 of the Revised Code;

(2) The children's health insurance program part I, part II, and part III established under sections 5101.50 to 5101.529 of the Revised Code;

(3) The disability medical assistance program established under Chapter 5115. of the Revised Code;

(4) The children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.

(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.

(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.

(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.

(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a

medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. 5101.572. (A) A third party shall cooperate with the department of job and family services in identifying individuals for the purpose of establishing third party liability pursuant to Title XIX of the Social Security Act, as amended.

(B) In furtherance of the requirement in division (A) of this section and to allow the department to determine any period that the individual or the individual's spouse or dependent may have been covered by the third party and the nature of the coverage, a third party shall provide, as the department so chooses, information or access to information, or both, in the third party's electronic data system on the department's request and in accordance with division (C) of this section.

(C)(1) If the department chooses to receive information directly, the third party shall provide the information under all of the following circumstances:

(a) In a medium, format, and manner prescribed by the director of job and family services in rules adopted under section 5101.591 of the Revised Code;

(b) Free of charge;

(c) Not later than the end of the thirtieth day after the department makes its request, unless a different time is agreed to by the director in writing.

(2) If the department chooses to receive access to information, the third party shall provide access by a method prescribed by the director of job and family services in rules adopted under section 5101.591 of the Revised Code. In facilitating access, the department may enter into a trading partner agreement with the third party to permit the exchange of information via "ASC X 12N 270/271 Health Care Eligibility Benefit Inquiry and Response" transactions.

(D) All of the following apply with respect to information provided by a third party to the department under this section:

(1) The information is confidential and not a public record under section 149.43 of the Revised Code.

(2) The release of information to the department is not to be considered a violation of any right of confidentiality or contract that the third party may have with covered persons including, but not limited to, contractees, beneficiaries, heirs, assignees, and subscribers.

(3) The third party is immune from any liability that it may otherwise

incur through its release of information to the department.

The department of job and family services shall limit its use of information gained from third parties to purposes directly connected with the administration of the medicaid program and the child support program authorized by Title IV-D of the "Social Security Act."

(E) No third party shall disclose to other parties or make use of any information regarding recipients of aid under Chapter 5107. or 5111. of the Revised Code that it obtains from the department, except in the manner provided for by the director of job and family services in administrative rules.

Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical assistance through a managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a department on behalf of the recipient or participant. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a department shall not preclude a department from enforcing its rights under this section.

(B) In the case of a recipient or participant who receives medical assistance through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical assistance rendered to the recipient or participant, even if that amount is more than the amount a department pays to the managed care organization for the recipient's or participant's medical assistance.

(C) A recipient or participant, and the recipient's or participant's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the recipient or participant, or the recipient's or participant's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the appropriate department or departments as follows:

(1) To only the department of job and family services when medical assistance under medicaid or the children's buy-in program has been paid;

(2) To the department of job and family services and the appropriate county department of job and family services when medical assistance under the disability medical assistance program has been paid.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the recipient or participant has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments written notice as described in division (C) of this section and a reasonable opportunity to perfect their rights of recovery. If the departments are not given the appropriate written notice, the recipient or participant and, if there is one, the recipient's or participant's attorney, are liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments.

(F) The departments shall be permitted to enforce their recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of job and family services or county department of job and family services as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of a department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the recipient or participant in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, the department of job and family services or appropriate county department of job and family services shall receive no less than one-half of the remaining

amount, or the actual amount of medical assistance paid, whichever is less.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of job and family services or the appropriate county department of job and family services. To enforce their recovery rights, the departments may do any of the following:

(1) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.

(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A administrative agency" means both of the following:

(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services;

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code;

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code;

(f) A component of a Title IV-A program identified under divisions (A)(4)(a) to (e) of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on Title IV-A administrative agencies. No Title IV-A administrative agency may establish, by rule or otherwise, a policy governing a Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in divisions (A)(4)(c) to (f) of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of Title IV-A administrative agencies, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each Title IV-A administrative agency as may be necessary or advisable regarding a Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the

Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and sections 5101.801, 5101.802, and 5101.803 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than ~~January 1, 2001, and the first~~ last day of each January and July ~~thereafter~~, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under division (C)(11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government

entity on request.

(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. An authorized representative of a government entity or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program shall have access to all records and information bearing on the project for the purpose of investigations conducted pursuant to this section.

Sec. 5104.02. (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child day-care center. The director is responsible for the enforcement of this chapter and of rules promulgated pursuant to this chapter.

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child care that operates for two or less consecutive weeks;

(2) Child care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child care and is readily accessible at all times, except that child care provided on the premises at which a parent, custodian, or guardian is

employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

- (i) The site location of the program;
- (ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;
- (iii) The number of adults providing child care for the number of infants, toddlers, preschool children, or school children;
- (iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) ~~The state board of education has approved the program's~~ program is eligible for participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.041. (A) All type A and type B family day-care homes shall procure and maintain one of the following:

(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family day-care home against liability arising out of, or in connection with, the operation of the family day-care home. Liability insurance procured under this division shall cover any cause for which the type A or type B family day-care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.

(2) An affidavit signed by the parent, guardian, or custodian of each child receiving child care from the type A or type B family day-care home that states all of the following:

(a) The family day-care home does not carry liability insurance described in division (A)(1) of this section;

(b) If the licensee of a type A family day-care home or the provider of a type B family day-care home is not the owner of the real property where the family day-care home is located, the liability insurance, if any, of the owner of the real property may not provide for coverage of any liability arising out of, or in connection with, the operation of the family day-care home.

(B) If the licensee of a type A family day-care home or the provider of a type B family day-care home is not the owner of the real property where the family day-care home is located and the family day-care home procures liability insurance described in division (A)(1) of this section, that licensee

or provider shall name the owner of the real property as an additional insured party on the liability insurance policy if all of the following apply:

(1) The owner of the real property requests the licensee or provider, in writing, to add the owner of the real property to the liability insurance policy as an additional insured party.

(2) The addition of the owner of the real property does not result in cancellation or nonrenewal of the insurance policy procured by the type A or type B family day-care home.

(3) The owner of the real property pays any additional premium assessed for coverage of the owner of the real property.

(C) Proof of insurance or affidavit required under division (A) of this section shall be maintained at the type A or type B family day-care home and made available for review during inspection or investigation as required under this chapter.

(D) The director of job and family services shall adopt rules for the enforcement of this section.

Sec. 5111.0210. Until July 1, 2009, the director of job and family services shall not change the medicaid reimbursement rates that apply to providers of durable medical equipment from the rates that are in effect on the effective date of this section.

On and after July 1, 2009, the director shall establish medicaid reimbursement rates that apply to providers of durable medical equipment by using a cost analysis methodology. The methodology shall include a statistically valid sample of all types of durable medical equipment providers in this state, including providers that have a large volume of sales, providers that have a small volume of sales, and providers that operate predominantly in rural, suburban, or metropolitan areas. The statistical mean that is derived by using the cost analysis methodology shall be used by the director to establish the medicaid reimbursement rates that apply to providers of durable medical equipment.

Sec. 5111.032. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Department" includes a designee of the department of job and family services.

(3) "Owner" means a person who has an ownership interest in a provider in an amount designated by the department of job and family services in rules adopted under this section.

(4) "Provider" means a person, institution, or entity that has a provider agreement with the department of job and family services pursuant to Title

The above boxed and initialed text was disapproved.

Date: June 24, 2008

Ted Strickland
Ted Strickland, Governor

XIX of the "Social Security Act," 49 State. 620 (1965), 42 U.S.C. 1396, as amended.

(B)(1) Except as provided in division (B)(2) of this section, the department of job and family services may require that any provider, applicant to be a provider, employee or prospective employee of a provider, owner or prospective owner of a provider, officer or prospective officer of a provider, or board member or prospective board member of a provider submit to a criminal records check as a condition of obtaining a provider agreement, continuing to hold a provider agreement, being employed by a provider, having an ownership interest in a provider, or being an officer or board member of a provider. The department may designate the categories of persons who are subject to the criminal records check requirement. The department shall designate the times at which the criminal records checks must be conducted.

(2) The section does not apply to providers, applicants to be providers, employees of a provider, or prospective employees of a provider who are subject to criminal records checks under section 5111.033 or 5111.034 of the Revised Code.

(C)(1) The department shall inform each provider or applicant to be a provider whether the provider or applicant is subject to a criminal records check requirement under division (B) of this section. For providers, the information shall be given at times designated in rules adopted under this section. For applicants to be providers, the information shall be given at the time of initial application. When the information is given, the department shall specify which of the provider's or applicant's employees or prospective employees, owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to the criminal records check requirement.

(2) At times designated in rules adopted under this section, a provider that is subject to the criminal records check requirement shall inform each person specified by the department under division (C)(1) of this section that the person is required, as applicable, to submit to a criminal records check for final consideration for employment in a full-time, part-time, or temporary position; as a condition of continued employment; or as a condition of becoming or continuing to be an officer, board member or owner of a provider.

(D)(1) If a provider or applicant to be a provider is subject to a criminal records check under this section, the department shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. If a provider or applicant to be a provider

for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the individual from the federal bureau of investigation in a criminal records check, the department shall require the provider or applicant to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the provider or applicant. Even if a provider or applicant for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require that the provider or applicant request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the provider or applicant.

(2) A provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified by the department under division (C)(1) of this section. If the person for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the individual from the federal bureau of investigation in a criminal records check, the individual shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the individual. Even if an individual for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require the provider to request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(E)(1) Criminal records checks required under this section for providers or applicants to be providers shall be obtained as follows:

(a) The department shall provide each provider or applicant information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.

(b) The provider or applicant shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code.

The applicant or provider shall pay all fees associated with obtaining the criminal records check.

(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The provider or applicant shall instruct the superintendent to submit the report of the criminal records check directly to the director of job and family services.

(2) Criminal records checks required under this section for persons specified by the department under division (C)(1) of this section shall be obtained as follows:

(a) The provider shall give to each person subject to criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.

(b) The person shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check shall instruct the superintendent to submit the report of the criminal records check directly to the provider. The department may require the provider to submit the report to the department.

(F) If a provider or applicant to be a provider is given the information specified in division (E)(1)(a) of this section but fails to obtain a criminal records check, the department shall, as applicable, terminate the provider agreement or deny the application to be a provider.

If a person is given the information specified in division (E)(2)(a) of this section but fails to obtain a criminal records check, the provider shall not, as applicable, permit the person to be an employee, owner, officer, or board member of the provider.

(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following:

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division ~~(D)~~(G)(1) of this section.

(H)(1)(a) Except as provided in rules adopted under division (J) of this section and subject to division (H)(2) of this section, no provider shall permit a person to be an employee, owner, officer, or board member of the provider if the person is subject to a criminal records check under this section and the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.

(b) No provider shall employ a person who has been excluded from participating in the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.

(2)(a) A provider may employ conditionally a person for whom a criminal records check is required under this section prior to obtaining the results of a criminal records check regarding the person, but only if the person submits a request for a criminal records check not later than five business days after the individual begins conditional employment.

(b) A provider that employs a person conditionally under authority of division (H)(2)(a) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results

indicate that the individual has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section, the provider shall terminate the person's employment unless the provider chooses to employ the individual pursuant to division (J) of this section.

(I) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The director of job and family services and the staff of the department in the administration of the medicaid program;

(3) A court, hearing officer, or other necessary individual involved in a case dealing with the denial or termination of a provider agreement;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a person's denial of employment, termination of employment, or employment or unemployment benefits.

(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department may continue a provider agreement or issue a provider agreement to an applicant when the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section. The rules may also specify circumstances under which a provider may permit a person to be an employee, owner, officer, or board member of the provider, when the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.

Sec. 5111.084. There is hereby established the pharmacy and therapeutics committee of the department of job and family services. The committee shall consist of ~~nine~~ ten members and shall be appointed by the director of job and family services. The membership of the committee shall include: ~~three~~

(A) Three pharmacists licensed under Chapter 4729. of the Revised Code; ~~two~~

(B) Two doctors of medicine and two doctors of osteopathy ~~licensed~~ who hold certificates issued under Chapter 4731. of the Revised Code; ~~a~~

(C) A registered nurse licensed under Chapter 4723. of the Revised

Code; ~~and a~~

(D) A pharmacologist who has a doctoral degree;

(E) A psychiatrist who holds a certificate issued under Chapter 4731. of the Revised Code and specializes in psychiatry. At least one of the members who is a doctor of medicine or doctor of osteopathy shall be a psychiatrist.
~~The~~

The committee shall elect one of its members as chairperson.

Sec. 5111.091. ~~Every three months~~ Not later than the first day of each calendar quarter, the director of job and family services shall submit a report to the president and minority leader of the senate ~~and~~ speaker and minority leader of the house of representatives, and the chairpersons of the committees of the senate and house of representatives that hear bills making biennial appropriations on the establishment and implementation of programs designed to control the increase of the cost of the medicaid program, increase the efficiency of the medicaid program, and promote better health outcomes.

The report shall include information regarding all of the following:

(A) Provider network management;

(B) Electronic claims submission and payment systems;

(C) Limited provider contracts and payments based on performance;

(D) Efforts to enforce third party liability;

(E) Implementation of the medicaid information technology system;

(F) Expansion of the medicaid data warehouse and decision support system;

(G) Development of infrastructure policies for electronic health records and e-prescribing.

Sec. 5111.31. (A) Every provider agreement with the provider of a nursing facility or intermediate care facility for the mentally retarded shall:

(1) Prohibit the provider from failing or refusing to retain as a patient any person because the person is, becomes, or may, as a patient in the facility, become a medicaid recipient. For the purposes of this division, a medicaid recipient who is a patient in a facility shall be considered a patient in the facility during any hospital stays totaling less than twenty-five days during any twelve-month period. Recipients who have been identified by the department of job and family services or its designee as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period of absences during which they are considered patients if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained under rules adopted under section 5111.02 of the Revised Code.

(2) Except as provided by division (B)(1) of this section, include any part of the facility that meets standards for certification of compliance with federal and state laws and rules for participation in the medicaid program.

(3) Prohibit the provider from discriminating against any patient on the basis of race, color, sex, creed, or national origin.

(4) Except as otherwise prohibited under section 5111.55 of the Revised Code, prohibit the provider from failing or refusing to accept a patient because the patient is, becomes, or may, as a patient in the facility, become a medicaid recipient if less than eighty per cent of the patients in the facility are medicaid recipients.

(B)(1) Except as provided by division (B)(2) of this section, the following are not required to be included in a provider agreement unless otherwise required by federal law:

(a) Beds added during the period beginning July 1, 1987, and ending July 1, 1993, to a nursing home licensed under Chapter 3721. of the Revised Code;

(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code;

~~(c) Beds that are converted to providing home and community based services under the ICF/MR conversion pilot program authorized by a waiver sought under division (B)(1) of section 5111.88 of the Revised Code.~~

(2) If a provider chooses to include a bed specified in division (B)(1)(a) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the facility in which the bed is located from the medicaid program.

(C) Nothing in this section shall bar a provider that is a religious organization operating a religious or denominational nursing facility or intermediate care facility for the mentally retarded from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any provider from giving preference to persons with whom the provider has contracted to provide continuing care.

(D) Nothing in this section shall bar the provider of a county home organized under Chapter 5155. of the Revised Code from admitting residents exclusively from the county in which the county home is located.

(E) No provider of a nursing facility or intermediate care facility for the mentally retarded for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.

(F) Nothing in divisions (A) and (C) of this section shall bar a provider from retaining patients who have resided in the provider's facility for not

less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a patient any person who is or may, as a patient in the facility, become a medicaid recipient, if all of the following apply:

(1) The provider does not refuse to retain any patient who has resided in the provider's facility for not less than one year as a private pay patient because the patient becomes a medicaid recipient, except as necessary to comply with division (F)(2) of this section;

(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility;

(3) On July 1, 1980, all the patients in the facility were private pay patients.

Sec. 5111.71. (A) As used in sections 5111.71 to 5111.715 of the Revised Code, "qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(1) It holds a valid medicaid provider agreement.

(2) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules adopted under section 5111.715 of the Revised Code.

(B) The director of job and family services shall submit a state medicaid plan amendment to the United States secretary of health and human services for the purpose of creating, in accordance with sections 5111.71 to 5111.715 of the Revised Code, the medicaid school component of the medicaid program. The director shall create the medicaid school component on receipt of the United States secretary's approval of the amendment.

Sec. 5111.711. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of job and family services for federal financial participation for providing, in schools, services covered by the medicaid school component to medicaid recipients who are eligible for the services. No qualified medicaid school provider may submit such a claim before the provider incurs the cost of providing the service.

The claim shall include certification of the qualified medicaid school provider's expenditures for the service. The certification shall show that the money the qualified medicaid school provider used for the expenditures was nonfederal money the provider may legally use for providing the service and that the amount of the expenditures was sufficient to pay the full cost of the

service.

Except as otherwise provided in sections 5111.71 to 5111.715 of the Revised Code and rules adopted under sections 5111.713 and 5111.715 of the Revised Code, a qualified medicaid school provider is subject to all conditions of participation in the medicaid program that generally apply to providers of goods and services under the medicaid program, including conditions regarding audits and recovery of overpayments.

Sec. 5111.712. The department of job and family services shall seek federal financial participation for each claim a qualified medicaid school provider properly submits to the department under section 5111.711 of the Revised Code. The department shall disburse the federal financial participation the department receives from the federal government for such a claim to the qualified medicaid school provider that submitted the claim. The department may not pay the qualified medicaid school provider the nonfederal share of the cost of the services for which the claim was submitted.

Sec. 5111.713. The department of job and family services shall enter into an interagency agreement with the department of education under section 5111.91 of the Revised Code that provides for the department of education to administer the medicaid school component of the medicaid program other than the aspects of the component that sections 5111.71 to 5111.715 of the Revised Code require the department of job and family services to administer. The interagency agreement may include a provision that provides for the department of education to pay to the department of job and family services the nonfederal share of a portion of the administrative expenses the department of job and family services incurs in administering the aspects of the component that the department of job and family services administers.

The department of education shall establish, in rules adopted under Chapter 119. of the Revised Code, a process by which qualified medicaid school providers participating in the medicaid school component pay to the department of education the nonfederal share of the department's expenses incurred in administering the component.

Sec. 5111.714. (A) There is hereby created in the state treasury the medicaid school program administrative fund.

(B) Both of the following shall be deposited into the medicaid school program administrative fund:

(1) The federal funds the department of education receives for the expenses the department incurs in administering the medicaid school component of the medicaid program;

(2) The money the department collects from qualified medicaid school providers in the process established in rules adopted under section 5111.713 of the Revised Code.

(C) No funds shall be deposited into the medicaid school program administrative fund in violation of federal statutes or regulations.

(D) The department of education shall use money in the medicaid school program administrative fund for both of the following purposes:

(1) Paying for the expenses the department incurs in administering the medicaid school component of the medicaid program:

(2) Paying a qualified medicaid school provider a refund for any overpayment the provider makes to the department under the process established in rules adopted under section 5111.713 of the Revised Code if the process results in an overpayment.

Sec. 5111.715. The director of job and family services shall adopt rules under Chapter 119. of the Revised Code as necessary to implement the medicaid school component of the medicaid program, including rules that establish or specify all of the following:

(A) Conditions a board of education of a city, local, or exempted school district, governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind must meet to participate in the component:

(B) Services the component covers:

(C) Reimbursement rates for the services the component covers.

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family services, and mental retardation and developmental disabilities at least ninety days' notice of the operator's intent to relinquish the facility's certification as an intermediate care facility for the mentally retarded and to begin providing home and community-based services.

(2) The operator complies with the requirements of sections 5111.65 to 5111.688 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) The operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code.

(5) The director of mental retardation and developmental disabilities approves the conversion.

(C) The notice to the director of mental retardation and developmental disabilities under division (B)(1) of this section shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

(D) If the director of mental retardation and developmental disabilities

approves a conversion under division (B) of this section, the director of health shall terminate the certification of the intermediate care facility for the mentally retarded to be converted. The director of health shall notify the director of job and family services of the termination. On receipt of the director of health's notice, the director of job and family services shall terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility. The operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement.

Sec. 5111.875. (A) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, a person who acquires, through a request for proposals issued by the director of mental retardation and developmental disabilities, a residential facility that is an intermediate care facility for the mentally retarded and for which the license as a residential facility was previously surrendered or revoked may convert some or all of the facility's beds from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The person provides the directors of health, job and family services, and mental retardation and developmental disabilities at least ninety days' notice of the person's intent to make the conversion.

(2) The person complies with the requirements of sections 5111.65 to 5111.688 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) If the person intends to convert all of the facility's beds, the person notifies each of the facility's residents that the facility is to cease providing ICF/MR services and informs each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the person intends to convert some but not all of the facility's beds,

the person notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The person meets the requirements for providing home and community-based services at a residential facility.

(B) The notice provided to the directors under division (A)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services.

(C) On receipt of a notice under division (A)(1) of this section, the director of health shall do the following:

(1) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted;

(2) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(D) The director of health shall notify the director of job and family services of the termination or reduction under division (C) of this section. On receipt of the director of health's notice, the director of job and family services shall do the following:

(1) Terminate the person's medicaid provider agreement that authorizes the person to provide ICF/MR services at the facility if the facility's certification was terminated;

(2) Amend the person's medicaid provider agreement to reflect the facility's reduced certified capacity if the facility's certified capacity is reduced.

The person is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates or amends the medicaid provider agreement.

Sec. 5111.876. Subject to section 5111.877 of the Revised Code, the director of mental retardation and developmental disabilities may request that the director of job and family services seek the approval of the United States secretary of health and human services to increase the number of slots available for home and community-based services by a number not exceeding the number of beds that were part of the licensed capacity of a residential facility that had its license revoked or surrendered under section 5123.19 of the Revised Code if the residential facility was an intermediate care facility for the mentally retarded at the time of the license revocation or surrender. The revocation or surrender may have occurred before, or may occur on or after, the effective date of this section. The request may include beds the director removed from such a residential facility's licensed capacity before transferring ownership or operation of the residential facility pursuant to a request for proposals.

Sec. 5111.877. The director of job and family services may seek approval from the United States secretary of health and human services for not more than a total of one hundred slots for home and community-based services for the purposes of sections 5111.874, 5111.875, and 5111.876 of the Revised Code.

Sec. 5111.878. Not more than a total of one hundred beds may be converted from providing ICF/MR services to providing home and community-based services under sections 5111.874 and 5111.875 of the Revised Code.

Sec. 5111.879. No person or government entity may reconvert a bed to be used for ICF/MR services if the bed was converted to use for home and community-based services under section 5111.874 or 5111.875 of the Revised Code. This prohibition applies regardless of either of the following:

(A) The bed is part of the licensed capacity of a residential facility.

(B) The bed has been sold, leased, or otherwise transferred to another person or government entity.

Sec. 5111.8710. The directors of job and family services and mental retardation and developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5111.874 to 5111.8710 of the Revised Code.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law;

(5) Amounts that the department of education pays to the department of job and family services, if any, pursuant to an interagency agreement entered into under section 5111.713 of the Revised Code.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.941. (A) The medicaid revenue and collections fund is hereby created in the state treasury. Except as otherwise provided by statute or as authorized by the controlling board, ~~the non-federal~~ both of the following shall be credited to the fund:

(1) The nonfederal share of all medicaid-related revenues, collections, and recoveries shall be credited to the fund;

(2) The monthly premiums charged under the children's buy-in program pursuant to section 5101.5213 of the Revised Code. The

(B) The department of job and family services shall use money credited to the medicaid revenue and collections fund to pay for medicaid services and contracts and the children's buy-in program established under sections

5101.5211 to 5101.5216 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) ~~For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons~~ purposes specified in sections 5112.37 and 5112.371 of the Revised Code, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to ~~nine~~ eleven dollars and ~~sixty-three~~ ninety-eight cents multiplied, ~~except as adjusted under section 5112.311 of the Revised Code~~, by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Beginning July 1, ~~2007~~ 2009, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. ~~All~~ There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. Ninety-four and twenty-eight hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code shall be deposited into the ~~"home and community-based services for the mentally retarded and developmentally disabled fund," which is hereby created in the state treasury.~~ The department of job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of job and family services and mental retardation and developmental disabilities shall use the money for the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and developmentally

disabled persons.

Sec. 5112.371. There is hereby created in the state treasury the children with intensive behavioral needs programs fund. Five and seventy-two hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code shall be deposited in the fund. The money in the fund shall be used for the programs the director of mental retardation and developmental disabilities establishes under section 5123.0417 of the Revised Code.

Sec. 5123.0412. (A) The department of mental retardation and developmental disabilities shall charge each county board of mental retardation and developmental disabilities an annual fee equal to one and one-half per cent of the total value of all medicaid paid claims for ~~medicaid case management services~~ and home and community-based services provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODMR/DD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of mental retardation and developmental disabilities shall use the money in the ODMR/DD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) The administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0417. (A) Using funds available under section 5112.371 of the Revised Code, the director of mental retardation and developmental disabilities shall establish one or more programs for individuals under twenty-one years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by providing financial support for scholarly research and publication of clinical

findings.

(B) The director of mental retardation and developmental disabilities shall collaborate with the director of job and family services and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing programs under this section.

Sec. 5123.196. (A) Except as provided in division ~~(F)~~(E) of this section, the director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) ~~Except as provided in division (D) of this section, the~~ The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds that cease to be residential facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered in accordance with section 5123.19 of the Revised Code ~~and after the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code;~~

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility bed if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility in which the bed was located ~~unless the reason the bed ceases to be a residential facility bed is because it is converted to providing home and community based services under the ICF/MR conversion pilot program that is authorized by a waiver sought under division (B)(1) of section 5111.88 of the Revised Code.~~

~~(D) The director shall increase the number of beds determined under division (B) of this section if necessary to enable the operator of a residential facility to do either of the following:~~

~~(1) Obtain a residential facility license as required by section 5111.8814 of the Revised Code;~~

~~(2) Reconvert beds to providing ICF/MR services under section 5111.8811 of the Revised Code.~~

~~(E)~~ The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

~~(F)~~(E) The director may issue an interim license under division (S) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted under division (H)(11) of that section, a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

Sec. 5123.36. (A) To the extent funds are available and on application by a county board of mental retardation and developmental disabilities or private nonprofit agency incorporated to provide mental retardation or developmental disability services, the director of mental retardation and developmental disabilities may enter into an agreement with the county board or agency to assist the county board or agency with a mental retardation or developmental disability construction project. Except as provided by division (B) of this section, the director may provide up to ninety per cent of the total project cost where circumstances warrant. The director may, where circumstances warrant, use existing facilities or other in-kind match for the local share of the communities' share of the cost.

(B) Upon the recommendation of the director, for projects of the highest priority of the department of mental retardation and developmental disabilities, the controlling board may authorize the director to provide more than ninety per cent of the total cost of a project under this section.

(C) A county board is eligible for funds under this section for a project bid on or after January 1, 1992, under either section 153.07 or 307.86 of the Revised Code, as long as all other applicable requirements were followed.

(D) A private nonprofit agency that receives funds pursuant to this section for the construction of a single-family home, including, where appropriate, the acquisition and installation of a single-family home fabricated in an off-site facility, is not subject to the requirements of Chapter 153. of the Revised Code with respect to the construction project, notwithstanding any provision of that chapter to the contrary.

(E) The director may not assist a project under this section unless the controlling board or director of budget and management also approves the project pursuant to section 126.14 of the Revised Code.

Sec. 5501.09. (A) There is hereby created within the division of multi-modal planning and programs the office of maritime transportation. The director of transportation shall assign to the office such duties, powers,

and functions relating to state maritime transportation issues and activities as the director determines.

(B) In addition to those duties, powers, and functions the director assigns to it, the office of maritime transportation shall exercise and perform such other duties, powers, and functions as are assigned to it by law.

Sec. 5502.68. (A) There is hereby created in the state treasury the drug law enforcement fund. Three dollars and fifty cents out of each ten-dollar court cost imposed pursuant to section 2949.094 of the Revised Code shall be credited to the fund. Money in the fund shall be in an interest-bearing account, and all interest earned shall be credited to the fund. Money in the fund shall be used only in accordance with this section to award grants to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

The division of criminal justice services shall administer all money deposited into the drug law enforcement fund and, by rule adopted under Chapter 119. of the Revised Code, shall establish procedures for a county, municipal corporation, township, township police district, or joint township police district to apply for money from the fund to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity, procedures and criteria for determining eligibility of applicants to be provided money from the fund, and procedures and criteria for determining the amount of money to be provided out of the fund to eligible applicants.

(B) The procedures and criteria established under division (A) of this section for applying for money from the fund shall include, but shall not be limited to, a provision requiring a county, municipal corporation, township, township police district, or joint township police district that applies for money from the fund to specify in its application the amount of money desired from the fund, provided that the cumulative amount requested in all applications submitted for any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year for that task force.

(C) The procedures and criteria established under division (A) of this section for determining eligibility of applicants to be provided money from

The above boxed and initialed text was disapproved.

Date: June 24, 2008

Ted Strickland
Ted Strickland, Governor

the fund and for determining the amount of money to be provided out of the fund to eligible applicants shall include, but not be limited to, all of the following:

(1) Provisions requiring that, in order to be eligible to be provided money from the fund, a drug task force that applies for money from the fund must provide evidence that the drug task force will receive a local funding match of at least twenty-five per cent of the task force's projected operating costs in the period of time covered by the grant;

(2) Provisions requiring that money from the fund be allocated and provided to drug task forces that apply for money from the fund in accordance with the following priorities:

(a) Drug task forces that apply, that are in existence on the date of the application, and that are determined to be eligible applicants, and to which either of the following applies shall be given first priority to be provided money from the fund:

(i) Drug task forces that received funding through the division of criminal justice services in calendar year 2007;

(ii) Drug task forces in a county that has a population that exceeds seven hundred fifty thousand.

(b) If any moneys remain in the fund after all drug task forces that apply, that are in existence on the date of the application, that are determined to be eligible applicants, and that satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section are provided money from the fund as described in division (C)(2)(a) of this section, the following categories of drug task forces that apply and that are determined to be eligible applicants shall be given priority to be provided money from the fund in the order in which they apply for money from the fund:

(i) Drug task forces that are not in existence on the date of the application;

(ii) Drug task forces that are in existence on the date of the application but that do not satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section.

(D) The procedures and criteria established under division (A) of this section for determining the amount of money to be provided out of the fund to eligible applicants shall include, but shall not be limited to, a provision specifying that the cumulative amount provided to any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year.

(E) As used in this section "drug task force" means a drug task force organized in any county by the sheriff of the county, the prosecuting

attorney of the county, the chief of police of the organized police department of any municipal corporation or township in the county, and the chief of police of the police force of any township police district or joint township police district in the county to perform functions related to the enforcement of state drug laws and other state laws related to illegal drug activity.

Sec. 5513.01. (A) All purchases of machinery, materials, supplies, or other articles that the director of transportation makes shall be in the manner provided in this section. In all cases except those in which the director provides written authorization for purchases by district deputy directors of transportation, all such purchases shall be made at the central office of the department of transportation in Columbus. Before making any purchase at that office, the director, as provided in this section, shall give notice to bidders of the director's intention to purchase. Where the expenditure does not exceed the amount applicable to the purchase of supplies specified in division (B) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give such notice as the director considers proper, or the director may make the purchase without notice. Where the expenditure exceeds the amount applicable to the purchase of supplies specified in division (B) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give notice by posting for not less than ten days a written, typed, or printed invitation to bidders on a bulletin board, which shall be located in a place in the offices assigned to the department and open to the public during business hours. Producers or distributors of any product may notify the director, in writing, of the class of articles for the furnishing of which they desire to bid and their post-office addresses, in which case copies of all invitations to bidders relating to the purchase of such articles shall be mailed to such persons by the director by regular first class mail at least ten days prior to the time fixed for taking bids. The director also may mail copies of all invitations to bidders to news agencies or other agencies or organizations distributing information of this character. Requests for invitations shall not be valid nor require action by the director unless renewed, either annually or after such shorter period as the director may prescribe by a general rule. The invitation to bidders shall contain a brief statement of the general character of the article that it is intended to purchase, the approximate quantity desired, and a statement of the time and place where bids will be received, and may relate to and describe as many different articles as the director thinks proper, it being the intent and purpose of this section to authorize the inclusion in a single invitation of as many different articles as the director desires to invite bids upon at any given time. Invitations issued during each

calendar year shall be given consecutive numbers, and the number assigned to each invitation shall appear on all copies thereof. In all cases where notice is required by this section, sealed bids shall be taken, on forms prescribed and furnished by the director, and modification of bids after they have been opened shall not be permitted.

(B) The director may permit the Ohio turnpike commission, any political subdivision, and any state university or college to participate in contracts into which the director has entered for the purchase of machinery, materials, supplies, or other articles. ~~Any~~ The turnpike commission and any political subdivision or state university or college desiring to participate in such purchase contracts shall file with the director a certified copy of the bylaws or rules of the turnpike commission or the ordinance or resolution of ~~its~~ the legislative authority, board of trustees, or other governing board requesting authorization to participate in such contracts and agreeing to be bound by such terms and conditions as the director prescribes. Purchases made by the turnpike commission, political subdivisions, or state universities or colleges under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies, or other articles.

(C) As used in this section:

(1) "Political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, port authority, regional transit authority, regional airport authority, regional water and sewer district, or county transit board.

(2) "State university or college" has the same meaning as in division (A)(1) of section 3345.32 of the Revised Code.

(3) "Ohio turnpike commission" means the commission created by section 5537.02 of the Revised Code.

Sec. 5525.01. Before entering into a contract the director of transportation shall advertise for bids for two consecutive weeks in one newspaper of general circulation published in the county in which the improvement or part thereof is located, but if there is no such newspaper then in one newspaper having general circulation in an adjacent county. The director may advertise for bids in such other publications as the director considers advisable. Such notices shall state that plans and specifications for the improvement are on file in the office of the director and the district deputy director of the district in which the improvement or part thereof is located and the time within which bids therefor will be received.

Each bidder shall be required to file with the bidder's bid a bid guaranty

in the form of a certified check ~~or~~ a cashier's check, or an electronic funds transfer to the treasurer of state that is evidenced by a receipt or by a certification to the director of transportation in a form prescribed by the director that an electronic funds transfer has been made to the treasurer of state, for an amount equal to five per cent of the bidder's bid, but in no event more than fifty thousand dollars, or a bid bond for ten per cent of the bidder's bid, payable to the director, which check, transferred sum, or bond shall be forthwith returned to the bidder in case the contract is awarded to another bidder, or, in case of a successful bidder, when the bidder has entered into a contract and furnished the bonds required by section 5525.16 of the Revised Code. In the event the contract is awarded to a bidder, and the bidder fails or refuses to furnish the bonds as required by section 5525.16 of the Revised Code, the check, transferred sum, or bid bond filed with the bidder's bid shall be forfeited as liquidated damages. No bidder shall be required either to file a signed contract with the bidder's bid, to enter into a contract, or to furnish the contract performance bond and the payment bond required by that section until the bids have been opened and the bidder has been notified by the director that the bidder is awarded the contract.

The director shall permit a bidder to withdraw the bidder's bid from consideration, without forfeiture of the ~~certified check,~~ transferred sum, or bid bond filed with the bid, providing a written request together with a sworn statement of the grounds for such withdrawal is delivered within forty-eight hours after the time established for the receipt of bids, and if the price bid was substantially lower than the other bids, providing the bid was submitted in good faith, and the reason for the price bid being substantially lower was a clerical mistake evident on the face of the bid, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, or material made directly in the compilation of the bid. In the event the director decides the conditions for withdrawal have not been met, the director may award the contract to such bidder. If such bidder does not then enter into a contract and furnish the contract bond as required by law, the director may declare forfeited the ~~certified check,~~ transferred sum, or bid bond as liquidated damages and award the contract to the next higher bidder or reject the remaining bids and readvertise the project for bids. Such bidder may, within thirty days, appeal the decision of the director to the court of common pleas of Franklin county and the court may affirm or reverse the decision of the director and may order the director to refund the amount of the forfeiture. At the hearing before the common pleas court evidence may

be introduced for and against the decision of the director. The decision of the common pleas court may be appealed as in other cases.

There is hereby created the ODOT letting fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All certified checks and cashiers' checks received with bidders' bids, and all sums transferred to the treasurer of state by electronic funds transfer in connection with bidders' bids, under this section shall be credited to the fund. All such bid guaranties shall be held in the fund until a determination is made as to the final disposition of the money. If the department determines that any such bid guaranty is no longer required to be held, the amount of the bid guaranty shall be returned to the appropriate bidder. If the department determines that a bid guaranty under this section shall be forfeited, the amount of the bid guaranty shall be transferred or, in the case of money paid on a forfeited bond, deposited into the state treasury, to the credit of the highway operating fund. Any investment earnings of the ODOT letting fund shall be distributed as the treasurer of state considers appropriate.

The director shall require all bidders to furnish the director, upon such forms as the director may prescribe, detailed information with respect to all pending work of the bidder, whether with the department of transportation or otherwise, together with such other information as the director considers necessary.

In the event a bidder fails to submit anything required to be submitted with the bid and then fails or refuses to so submit such at the request of the director, the failure or refusal constitutes grounds for the director, in the director's discretion, to declare as forfeited the bid guaranty submitted with the bid.

The director may reject any or all bids. Except in regard to contracts for environmental remediation and specialty work for which there are no classes of work set out in the rules adopted by the director, if the director awards the contract, the director shall award it to the lowest competent and responsible bidder as defined by rules adopted by the director under section 5525.05 of the Revised Code, who is qualified to bid under sections 5525.02 to 5525.09 of the Revised Code. In regard to contracts for environmental remediation and specialty work for which there are no classes of work set out in the rules adopted by the director, the director shall competitively bid the projects in accordance with this chapter and shall award the contracts to the lowest and best bidder.

The award for all projects competitively let by the director under this section shall be made within ten days after the date on which the bids are

opened, and the successful bidder shall enter into a contract and furnish a contract performance bond and a payment bond, as provided for in section 5525.16 of the Revised Code, within ten days after the bidder is notified that the bidder has been awarded the contract.

The director may insert in any contract awarded under this chapter a clause providing for value engineering change proposals, under which a contractor who has been awarded a contract may propose a change in the plans and specifications of the project that saves the department time or money on the project without impairing any of the essential functions and characteristics of the project such as service life, reliability, economy of operation, ease of maintenance, safety, and necessary standardized features. If the director adopts the value engineering proposal, the savings from the proposal shall be divided between the department and the contractor according to guidelines established by the director, provided that the contractor shall receive at least fifty per cent of the savings from the proposal. The adoption of a value engineering proposal does not invalidate the award of the contract or require the director to rebid the project.

Sec. 5533.94. In addition to the designation in section 5533.35 of the Revised Code, the road known as interstate highway number ninety, located within the municipal corporation of Willoughby Hills in Lake county only, shall be known as the "Cpl. Joshua Harmon Memorial Highway."

The director of transportation may erect suitable markers along the highway indicating its name.

Sec. 5703.19. (A) To carry out the purposes of the laws that the tax commissioner is required to administer, the commissioner or any person employed by the commissioner for that purpose, upon demand, may inspect books, accounts, records, and memoranda of any person or public utility subject to those laws, and may examine under oath any officer, agent, or employee of that person or public utility. Any person other than the commissioner who makes a demand pursuant to this section shall produce the person's authority to make the inspection.

(B) If a person or public utility receives at least ten days' written notice of a demand made under division (A) of this section and refuses to comply with that demand, a penalty of five hundred dollars shall be imposed upon the person or public utility for each day the person or public utility refuses to comply with the demand. Penalties imposed under this division may be assessed and collected in the same manner as assessments made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 5739., 5743., 5745., 5747., 5749., or ~~5753.~~ 5751., or sections 3734.90 to 3734.9014, of the Revised Code.

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal auditing in the office of budget and management charged with conducting the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal auditing.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state or the office of

internal auditing solely for purposes of an audit of the department.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the board of motor vehicle collision repair registration any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Disclosing to the department of natural resources information in the possession of the department that is necessary to verify the taxpayer's compliance with division (A)(1), (8), or (9) of section 5749.02 of the Revised Code.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio business gateway and shall recommend to the department of administrative services enhancements that will improve the Ohio business gateway. The committee shall consider all banking, technological, administrative, and other issues associated with the Ohio business gateway and shall make recommendations regarding the type of reporting forms or other tax documents to be filed through the Ohio business gateway.

(C) The committee shall consist of:

(1) The following members, appointed by the governor with the advice and consent of the senate:

(a) Not more than two representatives of the business community;

(b) Not more than three representatives of municipal tax administrators;
and

(c) Not more than two tax practitioners.

(2) The following ex officio members:

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee;

(b) The secretary of state or the secretary of state's designee;

(c) The treasurer of state or the treasurer of state's designee;

(d) The director of budget and management or the director's designee;

(e) ~~The director of the office of information technology~~ state chief information officer or the ~~director's officer's~~ designee; ~~and~~

(f) The tax commissioner or the tax commissioner's designee; and

(g) The director of development or the director's designee.

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments.

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge

of the member's duties.

(E) The committee is a part of the department of taxation for administrative purposes.

(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as the committee's secretary. The secretary shall keep minutes of the committee's meetings and a journal of all meetings, proceedings, findings, and determinations of the committee.

(G) The committee shall hire professional, technical, and clerical staff needed to support its activities.

(H) The committee shall meet as often as necessary to perform its duties.

Sec. 5703.82. (A) Not later than April 1, 2009, the department of taxation shall acquire the necessary hardware, software, and services to establish and implement a tax discovery data system to increase the efficiency of tax collections in the state. The system must be fully integrated and pre-staged for the purposes of assisting in revenue analysis, discovering noncompliant taxpayers, and collecting taxes from those taxpayers. The system shall consolidate tax data from various mainframe systems and operate as a single tax discovery data system. The department shall contract, pursuant to a competitive bidding process, for the necessary hardware, software, and services to implement the tax discovery data system.

(B) There is hereby created in the state treasury the discovery project fund. All money to the credit of the fund shall be used to pay the costs of implementing and operating the tax discovery data system and to defray the costs incurred by the department of taxation in administering the system.

(C) Beginning July 1, 2009, on or before the first day of January, April, July, and October of each calendar year, the tax commissioner shall determine and certify to the director of budget and management the amount needed to pay the costs of operating the tax discovery data system in the previous calendar quarter and the costs incurred in the previous calendar quarter by the department of taxation in administering the system. The director shall provide for payment from the general revenue fund to the discovery project fund of the amount so certified.

Sec. 5705.194. The board of education of any city, local, exempted village, cooperative education, or joint vocational school district at any time may declare by resolution that the revenue that will be raised by all tax levies which the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit, and that

it is therefore necessary to levy an additional tax in excess of the ten-mill limitation. The resolution shall be confined to a single purpose and shall specify that purpose. If the levy is proposed to renew all or a portion of the proceeds derived from one or more existing levies imposed pursuant to this section, it shall be called a renewal levy and shall be so designated on the ballot. If two or more existing levies are to be included in a single renewal levy but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be renewed shall not be levied after the year preceding the year in which the renewal levy is first imposed. Notwithstanding the original purpose of any one or more existing levies that are to be in any single renewal levy, the purpose of the renewal levy may be either to avoid an operating deficit or to provide for the emergency requirements of the school district. The resolution shall further specify the amount of money it is necessary to raise for the specified purpose for each calendar year the millage is to be imposed; if a renewal levy, whether the levy is to renew all, or a portion of, the proceeds derived from one or more existing levies; and the number of years in which the millage is to be in effect, which may include a levy upon the current year's tax list. The number of years may be any number not exceeding ~~five~~ ten.

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no

publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for two consecutive weeks prior to the election, and, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question submitted in an election vote in favor of the levy, the board of education of the school district may make the additional levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

After the approval of the levy and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have principal payment in the year of their issuance.

Sec. 5705.199. (A) At any time the board of education of a city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the revenue that will be raised by all tax levies that the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the necessary requirements of the school district, and that it is therefore necessary to levy a tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the school district. Such a levy shall be proposed as a substitute for all or a portion of one or more existing levies imposed under sections 5705.194 to 5705.197 of the Revised Code or under this section, by levying a tax as follows:

(1) In the initial year the levy is in effect, the levy shall be in a specified amount of money equal to the aggregate annual dollar amount of proceeds derived from the levy or levies, or portion thereof, being substituted.

(2) In each subsequent year the levy is in effect, the levy shall be in a specified amount of money equal to the sum of the following:

(a) The dollar amount of the proceeds derived from the levy in the prior year; and

(b) The dollar amount equal to the product of the total taxable value of all taxable real property in the school district in the then-current year, excluding carryover property as defined in section 319.301 of the Revised Code, multiplied by the annual levy, expressed in mills for each one dollar of valuation, that was required to produce the annual dollar amount of the levy under this section in the prior year; provided, that the amount under division (A)(2)(b) of this section shall not be less than zero.

(B) The resolution proposing the substitute levy shall specify the annual dollar amount the levy is to produce in its initial year; the first calendar year in which the levy will be due; and the term of the levy expressed in years, which may be any number not exceeding ten, or for a continuing period of time. The resolution shall specify the date of holding the election, which shall not be earlier than seventy-five days after certification of the resolution to the board of elections, and which shall be consistent with the requirements of section 3501.01 of the Revised Code. If two or more existing levies are to be included in a single substitute levy, but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be substituted shall not be levied after the year preceding the year in which the substitute levy is first imposed.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passage be certified to the county auditor in the manner provided by section 5705.195 of the Revised Code, and sections 5705.194 and 5705.196 of the Revised Code shall govern the arrangements for the submission of the question and other matters concerning the notice of election and the election, except as may be provided otherwise in this section.

(C) The form of the ballot to be used at the election on the question of a levy under this section shall be as follows:

"Shall a tax levy substituting for an existing levy be imposed by the (here insert name of school district) for the purpose of providing for the necessary requirements of the school district in the initial sum of (here insert the annual dollar amount the levy is to produce in its initial year), and a levy of taxes be made outside of the ten-mill limitation estimated by the county auditor to require (here insert number of mills) mills for each one dollar of valuation, which amounts to (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation for the initial year of the tax, for a period of (here insert the

number of years the levy is to be imposed, or that it will be levied for a continuing period of time), commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due), with the sum of such tax to increase only if and as new land or real property improvements not previously taxed by the school district are added to its tax list?

	<u>FOR THE TAX LEVY</u>	"
	<u>AGAINST THE TAX</u>	
	<u>LEVY</u>	

If the levy submitted is a proposal to substitute all or a portion of more than one existing levy, the form of the ballot may be changed so long as the ballot reflects the number of levies to be substituted and that none of the existing levies to be substituted will be levied after the year preceding the year in which the substitute levy is first imposed. The form of the ballot shall be modified by substituting the statement "Shall a tax levy substituting for an existing levy" with "Shall a tax levy substituting for existing levies" and adding the following statement after "added to its tax list?" and before "For the Tax Levy":

"If approved, any remaining tax years on any of the (here insert the number of existing levies) existing levies will not be collected after (here insert the current tax year or, if not the current tax year, the applicable tax year)."

(D) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(E) If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the rate and for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(F) A levy for a continuing period of time may be decreased pursuant to section 5705.261 of the Revised Code.

(G) A levy under this section substituting for all or a portion of one or more existing levies imposed under sections 5705.194 to 5705.197 of the Revised Code or under this section shall be treated as having renewed the levy or levies being substituted for purposes of the payments made under sections 5751.20 to 5751.22 of the Revised Code.

(H) After the approval of a levy on the current tax list and duplicate, and

prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy. The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, and 5705.218 of the Revised Code.

Sec. 5705.29. This section does not apply to a subdivision or taxing unit for which the county budget commission has waived the requirement to adopt a tax budget pursuant to section 5705.281 of the Revised Code. The tax budget shall present the following information in such detail as is prescribed by the auditor of state:

(A)(1) A statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the subdivision, classified as to personal services and other expenses, and the fund from which such expenditures are to be made. Except in the case of a school district, this estimate may include a contingent expense not designated for any particular purpose, and not to exceed three per cent of the total amount of appropriations for current expenses. In the case of a school district, this estimate may include a contingent expense not designated for any particular purpose and not to exceed thirteen per cent of the total amount of appropriations for current expenses.

(2) A statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the subdivision and the fund from which such expenditures are to be made;

(3) The amounts required for the payment of final judgments;

(4) A statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are to be made;

(5) Comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding fiscal years.

(B)(1) An estimate of receipts from other sources than the general

property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, or 5705.213, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the fiscal year following the year in which a levy proposed under section 5705.194, 5705.199, 5705.21, or 5705.213, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty per cent of the amount of the levy estimated to be available for appropriation in such year.

(3) Except as provided in division (E)(4) of this section, the full amount of any reserve balance the board includes in its budget shall be retained by the county auditor and county treasurer out of the first semiannual settlement of taxes until the beginning of the next succeeding fiscal year,

and thereupon, with the depository interest apportioned thereto, it shall be turned over to the board of education, to be used for the purposes of such fiscal year.

(4) A board of education, by a two-thirds vote of all members of the board, may appropriate any amount withheld as a voluntary contingency reserve balance during the fiscal year for any lawful purpose, provided that prior to such appropriation the board of education has authorized the expenditure of all amounts appropriated for contingencies under section 5705.40 of the Revised Code. Upon request by the board of education, the county auditor shall draw a warrant on the district's account in the county treasury payable to the district in the amount requested.

(F)(1) A board of education may include a spending reserve in its budget for fiscal years ending on or before June 30, 2002. The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is the amount by which the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

Fiscal year ending in:	Designated percentage
1998	50%
1999	40%
2000	30%
2001	20%
2002	10%

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of ~~sections~~

section 5747.51 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5709.121. (A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(1) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

(a) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(b) For other charitable, educational, or public purposes.

(2) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

(3) It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The owner to which the property is conveyed through one conveyance or a series of conveyances leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or an affiliate of such prior owner or occupant;

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

(C) For purposes of this section, an institution is a charitable institution if the institution is a nonprofit corporation or association, no part of the net earnings of which inures to the benefit of any private shareholder or individual, is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, the majority of the institution's board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof, and the primary purpose of the institution is to assist in the development and revitalization of downtown urban areas.

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the Revised Code:

(A) "Tax certificate," "certificate," or "duplicate certificate" means a document that may be issued as a physical certificate, in book-entry form, or through an electronic medium, at the discretion of the county treasurer. Such document shall contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person who purchases a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate has been transferred pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the sale of tax certificates under sections 5721.32, 5721.33, and 5721.42 of the Revised Code, the amount equal to delinquent taxes, ~~assessments, penalties, and~~

~~interest computed under section 323.121 of the Revised Code~~ charged against a certificate parcel at the time the tax certificate respecting that parcel is sold, not including any delinquent taxes, ~~assessments, penalties, interest, and charges~~, the lien for which has been conveyed to a certificate holder through a prior sale of a tax certificate respecting that parcel; ~~provided, however, that payment.~~ Payment of the certificate purchase price in a sale under section 5721.33 of the Revised Code may be made wholly in cash or partially in cash and partially by noncash consideration acceptable to the county treasurer from the purchaser. In the event that any such noncash consideration is delivered to pay a portion of the certificate purchase price, such noncash consideration may be subordinate to the rights of the holders of other obligations whose proceeds paid the cash portion of the certificate purchase price.

"Certificate purchase price" also includes the amount of the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(E)(1) With respect to a sale of tax certificates under section 5721.32 of the Revised Code, and except as provided in division (E)(2) of this section, ~~both of the following apply:~~

(1) ~~"Certificate~~ "certificate redemption price" means the certificate purchase price plus the greater of the following:

(a) ~~Interest~~ Simple interest, at the certificate rate of interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with section 5721.41 of the Revised Code;

(b) Six per cent of the certificate purchase price.

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(F) With respect to a sale of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:

(1) The certificate purchase price;

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33 of the Revised Code;

(4) Any other fees charged by any county office in connection with the

recording of tax certificates.

(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed pursuant to section 5721.42 of the Revised Code or by the county treasurer with respect to any tax certificate sold pursuant to a negotiated sale under section 5721.33 of the Revised Code. The certificate rate of interest shall not be less than zero per cent per year.

(H) "Cash" means United States currency, certified checks, money orders, bank drafts, ~~or~~ electronic transfer of funds, or other forms of payment authorized by the county treasurer, and excludes any other form of payment not so authorized.

(I) "The date on which a tax certificate is sold," "the date the certificate was sold," "the date the certificate is purchased," and any other phrase of similar content mean, with respect to a sale pursuant to an auction under section 5721.32 of the Revised Code, the date designated by the county treasurer for the submission of bids and, with respect to a negotiated sale under section 5721.33 of the Revised Code, the date of delivery of the tax certificates to the purchasers thereof pursuant to a tax certificate sale/purchase agreement.

(J) ~~"Purchaser of a tax certificate pursuant to section 5721.32 of the Revised Code" means the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code.~~

~~(K)~~ "Certificate interest period" means, with respect to a tax certificate sold under section 5721.32 or 5721.42 of the Revised Code and for the purpose of accruing interest under section 5721.41 of the Revised Code, the period beginning on the date on which the certificate is purchased and, with respect to a tax certificate sold under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) ~~In the case of foreclosure proceedings instituted under section 5721.37 of the Revised Code, the date the certificate holder submits a payment to the treasurer under division (B) of that section~~ The date the certificate holder files a request for foreclosure or notice of intent to foreclose under division (A) of section 5721.37 of the Revised Code and submits the payment required under division (B) of that section;

(2) ~~In the case of a certificate parcel redeemed under division (A) or (C) of section 5721.38 of the Revised Code, the~~ The date the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, pays

~~to the county treasurer or to the certificate holder, as applicable, the full amount determined under that section redeems the certificate parcel under division (A) or (C) of section 5721.38 of the Revised Code or redeems the certificate under section 5721.381 of the Revised Code.~~

~~(L)~~ "County treasurer" means, with respect to the sale of tax certificates under section 5721.32, or 5721.33 of the Revised Code, the county treasurer of a county having a population of at least two hundred thousand according to the then most recent federal decennial census.

~~(M)~~(K) "Qualified trustee" means a trust company within the state or a bank having the power of a trust company within the state with a combined capital stock, surplus, and undivided profits of at least one hundred million dollars.

~~(N)~~(L) "Tax certificate sale/purchase agreement" means the purchase and sale agreement described in division (C) of section 5721.33 of the Revised Code setting forth the certificate purchase price, plus any applicable premium or less any applicable discount, including, without limitation, the amount to be paid in cash and the amount and nature of any noncash consideration, the date of delivery of the tax certificates, and the other terms and conditions of the sale, including, without limitation, the rate of interest that the tax certificates shall bear.

~~(O)~~(M) "Noncash consideration" means any form of consideration other than cash, including, but not limited to, promissory notes whether subordinate or otherwise.

~~(P)~~(N) "Private attorney" means ~~for purposes of section 5721.37 of the Revised Code, any attorney licensed to practice law in this state, whether practicing with a firm of attorneys or otherwise, whose license has not been revoked or otherwise and is not currently suspended, and who brings is retained to bring~~ foreclosure proceedings pursuant to section 5721.37 of the Revised Code on behalf of a certificate holder.

~~(Q)~~(O) "Related certificate parcel" means, with respect to a certificate holder, the certificate parcel with respect to which the certificate holder has purchased and holds a tax certificate pursuant to sections 5721.30 to 5721.43 of the Revised Code and, with respect to a tax certificate, the certificate parcel against which the tax certificate has been sold pursuant to those sections.

(P) "Delinquent taxes" means delinquent taxes as defined in section 323.01 of the Revised Code and includes assessments and charges, and penalties and interest computed under section 323.121 of the Revised Code.

Sec. 5721.31. (A)(1) After receipt of a duplicate of the delinquent land list compiled under section 5721.011 of the Revised Code, or a delinquent

land list compiled previously under that section, ~~for a county having a population of at least two hundred thousand according to the most recent federal decennial census;~~ the county treasurer may select from the list parcels of delinquent land the lien against which the county treasurer may attempt to transfer by the sale of tax certificates under sections 5721.30 to 5721.43 of the Revised Code. ~~The county treasurer may select only those eligible parcels~~ None of the following parcels may be selected for a tax certificate sale:

(a) A parcel for which the full amount of taxes, assessments, penalties, interest, and charges have ~~not yet~~ been paid ~~or~~;

(b) A parcel for which a valid ~~delinquent tax~~ contract under section 323.122, 323.31, or 5713.20 of the Revised Code is ~~not~~ in force;

(c) A parcel the owner of which has filed a petition in bankruptcy, so long as the parcel is property of the bankruptcy estate. ~~Each certificate shall contain the same information as is required to be contained in the delinquent land list. The~~

(2) The county treasurer shall compile a separate list, ~~the list~~ of parcels selected for tax certificate sales, including the same information as is required to be included in the delinquent land list.

Upon compiling the list of parcels selected for tax certificate sales, the county treasurer may conduct a title search for any parcel on the list.

(B)(1) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold under section 5721.32 of the Revised Code with respect to parcels, the county treasurer shall send written notice by certified ~~or registered~~ mail to either the owner of record or all interested parties discoverable through a title search, or both, of each parcel on the list. A notice to an owner shall be sent to the owner's last known tax-mailing address. The notice shall inform the owner or interested parties that a tax certificate will be offered for sale on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale.

(2) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold under section 5721.33 of the Revised Code with respect to parcels, the county treasurer, at least thirty days prior to the date of sale of such tax certificates, shall send written notice of the sale by certified ~~or registered~~ mail, ~~or both~~, to the last known tax-mailing address of the record owner of the property or parcel and may send such notice to all parties with an interest in the property that has been recorded in the property records of the county pursuant to section 317.08 of the Revised Code. The notice shall state that a tax certificate will be offered for sale on the parcel, and that the owner or interested parties may incur additional expenses as a

result of the sale.

(3) The county treasurer is not required to send a notice under division (B)(1) or (B)(2) of this section if the treasurer previously has attempted to send such notice to the owner of the parcel and the notice has been returned by the post office as undeliverable. The absence of a valid tax-mailing address for the owner of a parcel does not preclude the county treasurer from selling a tax certificate for the parcel.

(C) The county treasurer shall advertise the sale of tax certificates under section 5721.32 of the Revised Code in a newspaper of general circulation in the county, once a week for two consecutive weeks. The advertisement shall include the date, the time, and the place of the public auction, abbreviated legal descriptions of the parcels, and the names of the owners of record of the parcels. The advertisement also shall include the certificate purchase prices of the parcels or the total purchase price of tax certificates for sale in blocks of tax certificates.

(D) After the county treasurer has compiled the list of parcels selected for tax certificate sales but before a tax certificate respecting a parcel is sold, if the owner of record of the parcel pays to the county treasurer in cash the ~~full amount of delinquent taxes, assessments, penalties, interest, and charges then due and payable or enters into a valid delinquent tax contract under section 323.31 of the Revised Code to pay that amount~~ delinquent taxes respecting the parcel or otherwise acts so that any condition in division (A)(1)(a), (b), or (c) of this section applies to the parcel, the owner of record of the parcel also shall pay a fee in an amount prescribed by the treasurer to cover the administrative costs of the treasurer under this section respecting the parcel ~~and credited. The fee shall be deposited in the county treasury to the credit of the~~ tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code.

(F) The county treasurers of more than one county may jointly conduct a regional sale of tax certificates under section 5721.32 of the Revised Code. A regional sale shall be held at a single location in one county, where the tax certificates from each of the participating counties shall be offered for sale

at public auction. Before the regional sale, each county treasurer shall advertise the sale for the parcels in the treasurer's county as required by division (C) of this section. At the regional sale, tax certificates shall be sold on parcels from one county at a time, with all of the certificates for one county offered for sale before any certificates for the next county are offered for sale.

(G) The tax commissioner shall prescribe the form of the tax certificate under this section, and county treasurers shall use the form so prescribed ~~by the commissioner~~.

Sec. 5721.32. (A) The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale under section 5721.31 of the Revised Code, on the date and at the time and place designated in the advertisements, and may be continued from time to time as the county treasurer directs. The county treasurer may offer the tax certificates for sale in blocks of tax certificates, consisting of any number of tax certificates as determined by the county treasurer.

(B)(1) The sale of tax certificates under this section shall be conducted at a public auction by the county treasurer or a designee of the county treasurer.

(2) No person shall be permitted to bid without completing a bidder registration form, in the form prescribed by the tax commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest,

and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county treasurer's decision is not appealable.

(D)(1) The winning bidder shall pay the county treasurer a cash deposit of at least ten per cent of the certificate purchase price not later than the close of business on the day of the sale. The winning bidder shall pay the balance and the fee required under division (H) of this section not later than five business days after the day on which the certificate is sold. ~~¶ Except as provided under division (D)(2) of this section, if~~ the winning bidder fails to pay the balance and fee within the prescribed time, the bidder forfeits the deposit, and the county treasurer shall retain the tax certificate and may attempt to sell it at any auction conducted at a later date. ~~The~~

(2) At the request of a winning bidder, the county treasurer may release the bidder from the bidder's tax certificate purchase obligation. The county treasurer may retain all or any portion of the deposit of a bidder granted a release. After granting a release under this division, the county treasurer may award the tax certificate to the person that submitted the second lowest bid at the auction.

(3) The county treasurer shall deposit the ~~forfeited~~ deposit ~~forfeited or retained under divisions (D)(1) or (2) of this section~~ in the county treasury to the credit of the tax certificate administration fund.

(E) Upon receipt of the full payment of the certificate purchase price from the purchaser, the county treasurer shall issue the tax certificate and record the tax certificate sale by ~~marking on the tax certificate and entering~~ into a tax certificate register; the certificate purchase price, the certificate rate of interest, the date the certificate was sold, ~~and~~ the name and address of the certificate holder, ~~which and any other information the county treasurer considers necessary. The county treasurer may keep the tax certificate register in a hard-copy format or in an electronic format. The name and address of the certificate holder may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificate to the certificate holder and, upon presentation to the treasurer of instructions signed by the certificate purchaser, shall record in the tax certificate register the name and address of any secured party of the certificate purchaser having a security interest in the tax certificate. Upon the transfer of a tax certificate, the~~ The county

treasurer shall apportion the part of the proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcel in the preceding tax year bears to the taxes levied by all such districts against the certificate parcel in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. Upon ~~completion of the sale of~~ issuing a tax certificate, the delinquent taxes, ~~assessments, penalties, and interest~~ that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those ~~delinquent taxes, assessments, penalties, and interest~~ delinquent taxes is conveyed intact to the certificate holder.

(F) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, 5721.14, or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(G) A certificate holder shall not be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.

(H) When selling a tax certificate under this section, the county treasurer shall charge a fee to the purchaser of the certificate. The county treasurer shall set the fee at a reasonable amount that covers the treasurer's costs of administering the sale of the tax certificate. The county treasurer shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

(I) After selling a tax certificate under this section, the county treasurer shall send written notice by certified ~~or registered~~ mail to the owner of the certificate parcel at the owner's last known tax-mailing address. The notice shall inform the owner that the tax certificate was sold, shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(1) of section 5721.38 of the Revised Code, and shall name the certificate holder and its secured party, if any. However, the county treasurer is not required to send a notice under this division if the

treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address, and the postal service has returned the notice as undeliverable.

(J) A tax certificate shall not be sold to the owner of the certificate parcel.

Sec. 5721.33. (A) A county treasurer may, in the treasurer's discretion, negotiate the sale of any number of tax certificates with one or more persons, ~~including~~. Terms that may be negotiated include, without limitation, any of the following:

(1) A premium to be added to or discount to be subtracted from the certificate purchase price for the tax certificates and any;

(2) Different time frames under which the certificate holder may initiate a foreclosure action than are otherwise allowed under sections 5721.30 to 5721.43 of the Revised Code, not to exceed six years after the date the tax certificate was sold;

(3) The amount to be paid in private attorney's fees related to tax certificate foreclosures, subject to section 5721.371 of the Revised Code;

(4) Any other terms of the sale that the county treasurer, in the treasurer's discretion, determines appropriate or necessary for the sale.

(B) The sale of tax certificates under this section shall be governed by the criteria established by the county treasurer pursuant to division (E) of this section.

(C) The county treasurer may execute a tax certificate sale/purchase agreement and other necessary agreements with a designated purchaser or purchasers to complete a negotiated sale of tax certificates.

(D) The tax certificate may be sold at a premium to or discount from the certificate purchase price. The county treasurer may establish as one of the terms of the negotiated sale the portion of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in cash on the date the tax certificates are sold and the portion, if any, of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in noncash consideration and the nature of that consideration.

The county treasurer shall sell such tax certificates at a certificate purchase price, plus any applicable premium and less any applicable discount, and at a certificate rate of interest that, in the treasurer's determination, are in the best interests of the county.

(E)(1) The county treasurer shall adopt rules governing the eligibility of persons to purchase tax certificates or to otherwise participate in a negotiated sale under this section. The rules may provide for precertification

of such persons, including a requirement for disclosure of income, assets, and any other financial information the county treasurer determines appropriate. The rules also may prohibit any person that is delinquent in the payment of any tax to the county or to the state, or that is in default in or on any other obligation to the county or to the state, from purchasing a tax certificate or otherwise participating in a negotiated sale of tax certificates under this section. The eligibility information required shall include the tax identification number of the purchaser and may include the tax identification number of the participant. The county treasurer, upon request, shall provide a copy of the rules adopted under this section.

(2) Any person that intends to purchase a tax certificate in a negotiated sale shall submit an affidavit to the county treasurer that establishes compliance with the applicable eligibility criteria and includes any other information required by the treasurer. Any person that fails to submit such an affidavit is ineligible to purchase a tax certificate. Any person that knowingly submits a false or misleading affidavit shall forfeit any tax certificate or certificates purchased by the person at a sale for which the affidavit was submitted, shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, of the tax certificate or certificates, and shall be disqualified from participating in any tax certificate sale conducted in the county during the next five years.

(3) A tax certificate shall not be sold to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest. No person that purchases a tax certificate in a negotiated sale shall assign or transfer the tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which the owner has an interest. Any person that knowingly or negligently transfers or assigns a tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, and shall not be entitled to a refund of any amount paid. Such tax certificate shall be deemed void and the tax lien sold under the tax certificate shall revert to the county as if no sale of the tax certificate had occurred.

(F) The purchaser in a negotiated sale under this section shall deliver the certificate purchase price, plus any applicable premium and less any applicable discount and including any noncash consideration, to the county treasurer not later than the close of business on the date the tax certificates are delivered to the purchaser. The certificate purchase price, ~~plus any~~

~~applicable premium and~~ less any applicable discount, or portion of the price, that is paid in cash shall be deposited in the county's general fund to the credit of the account to which ad valorem real property taxes are credited and further credited as provided in division (G) of this section. Any applicable premium that is paid shall be, at the discretion of the county treasurer, apportioned to and deposited in any authorized county fund. The purchaser also shall pay on the date the tax certificates are delivered to the purchaser the fee, if any, negotiated under division (J) of this section. If the purchaser fails to pay the certificate purchase price, plus any applicable premium and less any applicable discount, and any such fee, within the time periods required by this section, the county treasurer shall retain the tax certificate and may attempt to sell it at any auction or negotiated sale conducted at a later date.

(G) Upon receipt of the full payment from the purchaser of the certificate purchase price, plus any applicable premium and less any applicable discount, and the negotiated fee, if any, ~~from the purchaser~~, the county treasurer, or a qualified trustee whom the treasurer has engaged for such purpose, shall issue the tax certificate and record the tax certificate sale by ~~marking on each of the tax certificates sold or, if issued in book-entry form, on the global tax certificate, and marking~~ entering into a tax certificate register; the certificate purchase price, any premium paid or discount taken, the certificate rate of interest, the date the certificates were sold, ~~and~~ the name and address of the certificate holder or, in the case of issuance of the tax certificates in a book-entry system, the name and address of the nominee, ~~which and any other information the county treasurer considers necessary.~~ The county treasurer may keep the tax certificate register in a hard-copy format or an electronic format. The name and address of the certificate holder or nominee may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificates to the certificate holder and, upon presentation to the treasurer of instructions signed by the certificate purchaser or purchasers, shall record in the tax certificate register the name and address of any secured party of the certificate purchaser or purchasers having a security interest in the tax certificate. Upon the transfer of the tax certificates, the The county treasurer shall apportion the part of the cash proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcels in the preceding tax year bears to the taxes levied by all such districts against the certificate

parcels in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. If the cash proceeds from the sale are not sufficient to fully satisfy the items of ~~outstanding delinquent~~ taxes, assessments, penalties, interest, and charges on the certificate parcels against which tax certificates were sold, the county treasurer shall credit the cash proceeds to such items pro rata based upon the proportion that each item of ~~delinquent~~ taxes, assessments, penalties, interest, and charges bears to the aggregate of all such items, or by any other method that the county treasurer, in the treasurer's sole discretion, determines is equitable. Upon ~~completion of the sale of~~ issuing the tax certificates, the delinquent taxes, ~~assessments, penalties, and interest~~ that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes, ~~assessments, penalties, and interest~~ is conveyed intact to the certificate holder or holders.

(H) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, 5721.14, or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(I) Neither a certificate holder nor its secured party, if any, shall be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.

(J) When selling a tax certificate under this section, the county treasurer may negotiate with the purchaser of the certificate for ~~a fee~~ fees paid by the purchaser to the county treasurer to reimburse the treasurer for any part or all of the treasurer's costs of preparing for and administering the sale of the tax certificate and any fees set forth by the county treasurer in the tax certificate sale/purchase agreement. Such ~~fee~~ fees, if any, shall be added to the certificate purchase price ~~of the certificate~~ and shall be paid by the purchaser on the date of delivery of the tax certificate. The county treasurer shall deposit the ~~fee~~ fees in the county treasury to the credit of the tax certificate administration fund.

(K) After selling tax certificates under this section, the county treasurer shall send written notice by certified ~~or registered~~ mail to the last known tax-mailing address of the owner of the certificate parcel. The notice shall inform the owner that a tax certificate with respect to such owner's parcel was sold and shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(2) of section 5721.38 of the Revised Code. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address and the postal service has returned the notice as undeliverable.

Sec. 5721.34. (A) A county treasurer shall not sell any tax certificate respecting a parcel of delinquent land ~~upon which the full amount of delinquent taxes, assessments, penalties, interest, charges, and costs then due and payable have been paid, or with respect to which a valid delinquent tax contract under any of divisions (A)(1)(a) to (c) of section 323.31-5721.31 of the Revised Code to pay that amount has been entered into, prior to the sale of the certificate by the county treasurer apply.~~ A certificate sold in violation of this section is void.

(B) If the county treasurer discovers or determines that ~~the~~ a certificate is void ~~under division (A) of this section for any reason,~~ the holder of the void certificate is entitled to a refund of the certificate purchase price, plus any applicable premium and less any applicable discount, and the fee charged by the treasurer under division (H) of section 5721.32 or division (J) of section 5721.33 of the Revised Code, if any, as applicable. If the county treasurer makes the discovery or determination more than ~~sixty~~ ninety days after the certificate's date of sale, the holder also is entitled to interest on the certificate purchase price at the rate of five per cent per year. The interest shall be calculated from the first day of the month following the month in which the certificate was sold, to the first day of the month in which the county treasurer makes the discovery or determination. The county treasurer shall notify the certificate holder by ordinary first class or certified mail or by binary means that the certificate is void and shall issue the refund. The county auditor shall issue a warrant for the portion of the refund from the undivided tax fund, which portion consists of the certificate purchase price, plus any applicable premium and less any applicable discount; the portion of the refund consisting of interest and the treasurer's fee, if any, shall be paid from the tax certificate administration fund.

(C) With respect to a tax certificate ~~sold under section 5721.32 of the Revised Code and~~ found to be void under division (A) or (B) of this section,

~~in addition to the remedies available under division (B) of this section,~~ the county treasurer may, with the approval of the certificate holder, substitute for such tax certificate ~~or portion thereof~~ another tax certificate that has a value certificate purchase price equivalent to the value certificate purchase price of the tax certificate found to be void. In addition, the substitute tax certificate shall be for a parcel concerning which the county treasurer has taken action under divisions (A), (B), and (C) of section 5721.31 of the Revised Code, but with respect to which a tax certificate has not been sold, and that has a true value, as determined by the county auditor, that is equivalent to the true value of the parcel for which the tax certificate has been found to be void. Whenever a tax certificate ~~of equivalent value~~ is to be substituted for a tax certificate that has been found to be void, the county treasurer shall provide ~~written~~ notice of the intention to substitute a tax certificate ~~of equivalent value~~ to any person required to be notified under division (I) of section 5721.32 or division (K) of section 5721.33 of the Revised Code.

(D) If an application for the exemption from and remission of taxes made under section 3735.67 or 5715.27 of the Revised Code, or under any other section of the Revised Code under the jurisdiction of the director of environmental protection, is granted for a parcel for which a tax certificate has been sold, the county treasurer shall refund to the certificate holder, in the manner provided in this section, the amount of any taxes exempted or remitted that were included in the certificate purchase price. If the whole amount of the taxes included in the certificate purchase price are exempted or remitted, the tax certificate is void. If all of the taxes that were included in the certificate purchase price are not exempted or remitted, the county treasurer shall adjust the tax certificate register to reflect the remaining amount of taxes that were not exempted or remitted, and notify the certificate holder of the adjustment in writing.

Sec. 5721.35. (A) Upon the sale and delivery of a tax certificate, the tax certificate vests in the certificate holder the first lien previously held by the state and its taxing districts under section 5721.10 of the Revised Code for the amount of taxes, assessments, interest, and penalty charged against a certificate parcel, superior to all other liens and encumbrances upon the parcel described in the tax certificate, in the amount of the certificate redemption price, except liens for delinquent taxes, ~~assessments, penalties, interest, charges, and costs~~ that attached to the certificate parcel prior to the attachment of the lien being conveyed by the sale of such tax certificate. With respect to the priority as among such first liens of the state and its taxing districts for different years, the priority shall be determined by the

date such first liens of the state and its taxing districts attached pursuant to section 323.11 of the Revised Code, with first priority to the earliest attached lien and each immediately subsequent priority based upon the next earliest attached lien.

(B)(1) A certificate holder or the county treasurer may record the tax certificate or memorandum thereof in the office of the county recorder of the county in which the certificate parcel is situated, as a mortgage of land under division (A)(2) of section 317.08 of the Revised Code. The county recorder shall index the certificate in the indexes provided for under section 317.18 of the Revised Code. If the lien is subsequently canceled, the cancellation also shall be recorded by the county recorder.

(2) Notwithstanding Chapter 1309., Title LIII, or any other provision of the Revised Code, a secured party holding a security interest in a tax certificate or memorandum thereof may perfect that security interest only by one of the following methods:

(a) Possession;

(b) Registering the tax certificate with the county treasurer in the name of the secured party, or its agent or custodian, as certificate holder;

(c) Recording the name of the secured party in the tax certificate register in the office of the county treasurer of the county in which the certificate parcel is situated.

Sec. 5721.36. (A)(1) Except as otherwise provided in division (A)(2) of this section, the purchaser of a tax certificate sold as part of a block sale pursuant to section 5721.32 of the Revised Code may transfer the certificate to any person, and any other purchaser of a tax certificate pursuant to section 5721.32 or 5721.33 of the Revised Code may transfer the certificate to any person, except the owner of the certificate parcel or any corporation, partnership, or association in which such owner has an interest. The transferee of a tax certificate subsequently may transfer the certificate to any other person to whom the purchaser could have transferred the certificate. The transferor of a tax certificate shall endorse the certificate and shall swear to the endorsement before a notary public or other officer empowered to administer oaths. The transferee shall present the endorsed certificate and a notarized copy of a valid form of identification showing the transferee's taxpayer identification number to the county treasurer of the county where the certificate is registered, who shall, upon payment of a fee of twenty dollars to cover the costs associated with the transfer of a tax certificate, enter upon the register of certificate holders opposite the certificate entry the name and address of the transferee, the date of entry, and, upon presentation to the treasurer of instructions signed by the transferee, the name and

address of any secured party of the transferee having an interest in the tax certificate. The treasurer shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

Except as otherwise provided in division (A)(2) of this section, no request for foreclosure or notice of intent to foreclose, as the case may be, shall be filed by any person other than the person shown on the tax certificate register to be the certificate holder or a private attorney for that person properly authorized to act in that person's behalf.

(2) Upon registration of a security interest with the county treasurer ~~as provided in section 5721.32 or 5721.33 of the Revised Code~~, both of the following apply:

(a) No purchaser or transferee of a tax certificate may transfer that tax certificate except upon presentation to the treasurer of instructions signed by the secured party authorizing such action.

(b) Only the secured party may issue a request for foreclosure or notice of intent to foreclose concerning that tax certificate.

(B)(1) Application may be made to the county treasurer for a duplicate certificate if a certificate is alleged by affidavit to have been lost or destroyed. The treasurer shall issue a duplicate certificate, upon payment of a fee of twenty dollars to cover the costs of issuing the duplicate certificate. The treasurer shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

(2) The duplicate certificate shall be plainly marked or stamped "duplicate."

(3) The treasurer shall enter the fact of the duplicate in the tax certificate register ~~of certificate holders~~.

Sec. 5721.37. (A)(1) With respect to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code ~~in counties to which~~ by the holder of a certificate issued under section 5721.32 of the Revised Code ~~applies~~, at any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than ~~three~~ six years after that date, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of the certificate holder may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner ~~and provided by the county treasurer~~, provided the certificate parcel has not yet been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has

not been voided under section 5721.381 of the Revised Code.

(2) With respect to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code ~~in counties to which~~ by the holder of a certificate issued under section 5721.33 of the Revised Code applies, at any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of the certificate holder may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner and provided by the county treasurer, provided the parcel has not yet been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code.

(3)(a) With respect to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code ~~in counties to which~~ by the holder of a certificate issued under section 5721.32 of the Revised Code applies, if, before the expiration of ~~three~~ six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. If the owner of the property files a petition in bankruptcy, the It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of three six years after the date the certificate was sold or one hundred eighty days after the ~~bankruptcy case is closed~~ certificate parcel is no longer property of the bankruptcy estate; however, the ~~three-year~~ six-year period being measured from the date ~~that~~ the certificate was sold is tolled while the ~~owner of the property's petition in bankruptcy is being heard and property owner's bankruptcy case remains open.~~

(b) With respect to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code ~~in counties~~

~~to which~~ by the holder of a certificate issued under section 5721.33 of the Revised Code applies, if, before the expiration of six years after the date a tax certificate was sold or before the date negotiated by the county treasurer, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. If the owner of the property files a petition in bankruptcy, the It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a notice of intent to foreclose is the later of six years after the date that the tax certificate was sold or the date negotiated by the county treasurer, or one hundred eighty days after the bankruptcy case is closed certificate parcel is no longer property of the bankruptcy estate; however, the six-year or negotiated period being measured after the date that the certificate was sold is tolled while the owner of the property's petition in bankruptcy is being heard and property owner's bankruptcy case remains open.

(c) Interest at the certificate rate of interest continues to accrue during any extension of time required by division (A)(3)(a) or (b) of this section unless otherwise provided under Title 11 of the United States Code.

(4) If, before the expiration of three years from the date a tax certificate was sold, the owner of property for which the certificate was sold applies for an exemption under section 3735.67 or 5715.27 of the Revised Code or under any other section of the Revised Code under the jurisdiction of the director of environmental protection, the county treasurer shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the application. Once a determination has been made on the exemption application, the county treasurer shall notify the certificate holder of the determination by ordinary first-class or certified mail or by binary means. The last day on which the certificate holder may file a request for foreclosure shall be the later of three years from the date the certificate was sold or forty-five days after notice of the determination was ~~mailed~~ provided.

~~(B) Along with~~ When a request for foreclosure or a notice of intent to foreclose is filed under division (A)(1) or (2) of this section, ~~or a notice of intent to foreclose filed under division (A)(2) of this section and prior to the transfer of title in connection with foreclosure proceedings filed under division (F) of this section,~~ the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates

that have been sold on the parcel, other than tax certificates held by the person requesting foreclosure;

(2) Any ~~delinquent~~ taxes, assessments, penalties, interest, and charges ~~that are appearing on the tax duplicate~~ charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, 5721.14, or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding;

~~(4) If the foreclosure proceedings are filed by a private attorney on behalf of the certificate holder pursuant to division (F) of this section, any other prior liens.~~

(C)(1) With respect to a certificate purchased under section 5721.32, ~~5721.33,~~ or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall ~~inform~~ certify notice to that effect to the county prosecuting attorney ~~that the parcel has not been redeemed~~ and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the tax certificates for the certificate parcel may be redeemed is forthcoming. Within ninety days of receiving the copy of the foreclosure request, the prosecuting attorney shall commence a foreclosure proceeding in the name of the county treasurer in the manner provided under section 323.25, 5721.14, or 5721.18 of the Revised Code, to ~~foreclose~~ enforce the lien vested in the certificate holder by the certificate. The prosecuting attorney shall attach to the complaint the foreclosure request and the county treasurer's written certification ~~that the parcel has not been redeemed.~~

(2) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed ~~and,~~ at least one certificate respecting the certificate parcel, held by the certificate holder filing the notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been

voided under section 5721.381 of the Revised Code, a notice of intent to foreclose has been filed, and the payment required under division (B) of this section has been made, the county treasurer shall provide certification ~~certify notice to that effect to the private attorney that the parcel has not been redeemed.~~ The county treasurer also shall send notice by ordinary first class or certified mail or by binary means to all certificate holders other than the certificate holder represented by the attorney that a notice of intent to foreclose has been filed and that payment for the tax certificates for the certificate parcel may be redeemed is forthcoming. After receipt of ~~that the~~ treasurer's certification and not later than one hundred twenty days after the filing of the intent to foreclose or the number of days specified under the terms of a negotiated sale under section 5721.33 of the Revised Code, the private attorney ~~may~~ shall commence a foreclosure proceeding in the name of the certificate holder in the manner provided under division (F) of this section; to ~~foreclose~~ enforce the lien vested in the certificate holder by the certificate. The private attorney shall attach to the complaint the notice of intent to foreclose and the county treasurer's written certification ~~that the parcel has not been redeemed.~~

(D) The county treasurer shall credit the amount received under division (B)(1) of this section to the tax certificate redemption fund. The tax certificates respecting the payment shall be ~~redeemed~~ paid as provided in division ~~(E)(D)~~ of section 5721.38 of the Revised Code. The amount received under division (B)(2) of this section shall be distributed to the taxing districts to which the ~~delinquencies~~ delinquent and unpaid amounts are owed. The county treasurer shall deposit the fee received under division (B)(3) of this section in the county treasury to the credit of the delinquent tax and assessment collection fund. ~~The amount received under division (B)(4) of this section shall be distributed to the holder of the prior lien.~~

(E)(1) (a) If, in the case of a certificate purchased under section 5721.32 or 5721.42 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose along with the required payment within three six years after the date shown on the tax certificate as the date the certificate was sold or within the period provided under division (A)(3)(a) of this section, and during that period time the certificate has not been voided under section 5721.381 of the Revised Code and the parcel is has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel for the certificate redemption price is canceled, and the certificate is voided, subject to division (E)(1)(b) of this

section.

(b) In the case of any tax certificate purchased under section 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to the effective date of the amendment of this section by H.B. 562 of the 127th general assembly, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division (E)(1) of this section, as that division existed prior to that effective date, to six years after the date shown on the original certificate as the date it was sold or any extension of that date.

(2)(a) If, in the case of a certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with respect to a certificate parcel with the required payment within six years after the date shown on the tax certificate as the date the certificate was sold or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or within the period provided under division (A)(3)(b) of this section or as specified under the terms of a negotiated sale under section 5721.33 of the Revised Code, and during that period time the parcel is not redeemed certificate has not been voided under section 5721.381 of the Revised Code and the certificate parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel ~~for the amount of delinquent taxes, assessments, penalties, interest, and charges that make up the certificate purchase price~~ is canceled and the certificate is voided, subject to division (E)(2)(b) of this section.

(b) In the case of any tax certificate purchased under section 5721.33 of the Revised Code prior to October 10, 2000, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division (E)(2) of this section, as that division existed prior to October 10, 2000, to six years after the date shown on the original certificate as the date it was sold or any extension of that date. ~~The~~

(3) The county treasurer and the certificate holder shall negotiate the premium, in cash, to be paid for ~~the~~ a new certificate sold under division (E)(1)(b) or (2)(b) of this section. If the county treasurer and certificate holder do not negotiate a mutually acceptable premium, the county treasurer and certificate holder may agree to engage a person experienced in the

valuation of financial assets to appraise a fair premium for the new certificate. The certificate holder has the option to purchase the new certificate for the fair premium so appraised. Not less than one-half of the fee of the person so engaged shall be paid by the certificate holder requesting the new certificate; the remainder of the fee shall be paid from the proceeds of the sale of the new certificate. If the certificate holder does not purchase the new certificate for the premium so appraised, the certificate holder shall pay the entire fee. The county treasurer shall credit the remaining proceeds from the sale to the items of taxes, assessments, penalties, interest, and charges in the order in which they became due.

(4) A certificate issued under ~~this division (E)(1)(b) or (2)(b) of this section~~ vests in the certificate holder and its secured party, if any, the same rights, interests, privileges, and immunities as are vested by the original certificate under sections 5721.30 to 5721.43 of the Revised Code, ~~except that interest payable under division (B) of section 5721.38 or division (B) of section 5721.39 of the Revised Code shall be subject to the amendments to those divisions by Sub. H.B. 533 of the 123rd general assembly.~~ The certificate shall be issued in the same form as the form prescribed for the original certificate issued except for any modifications necessary, in the county treasurer's discretion, to reflect the extension under this division of the certificate holder's lien to six years after the date shown on the original certificate as the date it was sold or any extension of that date. The certificate holder may record a certificate issued under division (E)(1)(b) or (2)(b) of this section or memorandum thereof as provided in division (B) of section 5721.35 of the Revised Code, and the county recorder shall index the certificate and record any subsequent cancellation of the lien as provided in that section. The sale of a certificate extending the lien under division (E)(1)(b) or (2)(b) of this section does not impair the right of redemption of the owner of record of the certificate parcel or of any other person entitled to redeem the property.

(5) If the holder of a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice of intent to foreclose to the county treasurer but fails to file a foreclosure action in a court of competent jurisdiction within the time specified in division (C)(2) of this section, the liens represented by all tax certificates respecting the certificate parcel held by that certificate holder, and for which the deadline for filing a notice of intent to foreclose has passed, are canceled and the certificates voided, and the certificate holder forfeits the payment of the amounts described in division (B)(2) of this section.

(F) With respect to tax certificates purchased under section 5721.32,

5721.33, or 5721.42 of the Revised Code, upon the delivery to the ~~certificate holder~~ private attorney by the county treasurer of the certification provided for under division (C)(2) of this section, ~~a the private attorney may~~ shall institute a foreclosure proceeding under this division in the name of the certificate holder to ~~foreclose such~~ enforce the holder's lien, in any court with jurisdiction, unless the certificate redemption price is paid prior to the time a complaint is filed. The attorney shall prosecute the proceeding to final judgment and satisfaction, whether through sale of the property or the vesting of title and possession in the certificate holder.

The foreclosure proceedings under this division, except as otherwise provided in this division, shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks and the service shall be complete at the expiration of three weeks after the date of the first publication.

Any notice given under this division shall include the name of the owner of the parcel as last set forth in the records of the county recorder, the owner's last known mailing address, the address of the subject parcel if different from that of the owner, and a complete legal description of the subject parcel. In any county that has adopted a permanent parcel number system, such notice may include the permanent parcel number in addition to a complete legal description.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the certificate holder to allege in such holder's complaint that the tax certificate has been duly purchased by the certificate holder, that the certificate redemption price ~~appearing to be due and unpaid~~ is due and unpaid, and that there is a lien against the property described in the tax certificate, without setting forth in such holder's complaint any other special matter relating to the foreclosure proceeding. ~~The prayer of the complaint shall be that the court issue an order that the property be sold by the sheriff or, if the action is in the municipal court, by the bailiff, complaint shall pray for an order directing the sheriff, or the bailiff if the complaint is filed in municipal court, to offer the property for sale in the manner provided in section 5721.19 of the Revised Code, unless the complaint includes an appraisal by an independent appraiser acceptable to documents that the court county auditor has determined that the true value of the certificate parcel is less than the certificate purchase price. In that case, the prayer of the complaint shall be request that fee simple title to the property be transferred to and vested in the certificate holder free and clear of all subordinate liens.~~

In the foreclosure proceeding, the certificate holder may join in one action any number of tax certificates relating to the same owner, ~~provided that all parties on each of the tax certificates are identical as to name and priority of interest.~~ However, the decree for each tax certificate shall be rendered separately and any proceeding may be severed, in the discretion of the court, for the purpose of trial or appeal. ~~The~~ Upon confirmation of sale, the court shall order payment of all costs related directly or indirectly to the redemption of the tax certificate, including, without limitation, attorney's fees of the holder's attorney, as is considered proper in accordance with section 5721.371 of the Revised Code. The tax certificate purchased by the certificate holder is presumptive evidence in all courts and in all proceedings, including, without limitation, at the trial of the foreclosure action, of the amount and validity of the taxes, assessments, charges, penalties by the court and added to such principal amount, and interest appearing due and unpaid and of their nonpayment.

~~(G) For the purposes of this section, "prior liens" means liens that are prior in right to the lien with respect to the tax certificate that is the subject of the foreclosure proceedings.~~

~~(H)~~ If a parcel is sold under this section, the officer who conducted the sale shall collect the recording fee from the purchaser at the time of the sale and, following confirmation of the sale, shall prepare and record the deed conveying the title to the parcel to the purchaser.

Sec. 5721.371. Private attorney's fees payable with respect to an action under sections 5721.30 to 5721.46 of the Revised Code are subject to the following conditions:

(A) The fees must be reasonable.

(B) Fees exceeding two thousand five hundred dollars shall be paid only if authorized by a court order.

(C) The terms of a sale negotiated under section 5721.33 of the Revised Code may include the amount to be paid in private attorney's fees, subject to division (B) of this section.

Sec. 5721.38. (A) At any time prior to payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may redeem the parcel by paying to the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates respecting that parcel.

(B) At any time after payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under section 5721.37 of the

Revised Code and prior to the filing of the entry of confirmation of sale of a certificate parcel under foreclosure proceedings filed by the county prosecuting attorney or prior to the decree conveying title to the certificate holder as provided for in division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may redeem the parcel by paying to the county treasurer the sum of the following amounts:

(1) The amount described in division (A) of this section;

(2) Interest on the certificate purchase price for each tax certificate sold respecting the parcel at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division; ~~except that such interest shall not accrue for more than three years after the day the certificate was purchased if the certificate holder did not submit payment under division (B) of section 5721.37 of the Revised Code before the end of that three year period;~~

(3) An amount equal to the sum of the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code ~~if the tax certificate was purchased under section 5721.32 or 5721.42 of the Revised Code~~ plus interest on that amount at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division. If the parcel is redeemed before the complaint has been filed, the prosecuting attorney shall adjust the fee to reflect services performed to the date of redemption, and the county treasurer shall calculate the interest based on the adjusted fee and refund any excess fee to the certificate holder.

(4) Reasonable attorney's fees in accordance with section 5721.371 of the Revised Code if the certificate holder retained a private attorney to foreclose the lien;

(5) Any other costs and fees of the proceeding allocable to the certificate parcel as determined by the court. ~~Upon~~

The county treasurer may collect the total amount due under divisions (B)(1) to (5) of this section in the form of guaranteed funds acceptable to the treasurer. Immediately upon receipt of such payments, the county treasurer shall refund the payment made by reimburse the certificate holder to initiate who initiated foreclosure proceedings as provided in division (D) of this section. The county treasurer shall pay the certificate holder interest at the rate of eighteen per cent per year on amounts paid under divisions (B)(2) and (3) of section 5721.37 of the Revised Code, beginning on the day the certificate holder paid the amounts under those divisions and ending on the

day the parcel is redeemed under this section.

(C)(1) During the period beginning on the date a tax certificate is sold under section 5721.32 of the Revised Code and ending one year from that date, the county treasurer may enter into a redemption payment plan with the owner of record of the certificate parcel or any other person entitled to redeem that parcel. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate in installments, with the final installment due no later than one year after the date the tax certificate is sold. The certificate holder may at any time, by written notice to the county treasurer, agree to accept installments collected to the date of notice as payment in full. Receipt of such notice by the treasurer shall constitute satisfaction of the payment plan and redemption of the tax certificate.

(2) During the period beginning on the date a tax certificate is sold under section 5721.33 of the Revised Code and ending on the date the decree is rendered on the foreclosure proceeding under division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may enter into a redemption payment plan with the certificate holder and all secured parties of the certificate holder. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate, an administrative fee not to exceed one hundred dollars per year, and the actual fees and costs incurred, in installments, with the final installment due no later than ~~three~~ six years after the date the tax certificate is sold. The certificate holder shall give written notice of the plan to the applicable county treasurer within sixty days after entering into the plan and written notice of default under the plan within ninety days after the default. If such a plan is entered into, the time period for filing a request for foreclosure or a notice of intent to foreclose under section 5721.37 of the Revised Code is extended by the length of time the plan is in effect and not in default.

(D)(1) Immediately upon receipt of full payment under division (A) or (B) of this section, the county treasurer shall make an entry to that effect in the tax certificate register, credit the payment to the tax certificate redemption fund created in the county treasury, and shall notify ~~each the~~ certificate holder or holders by ordinary first class or certified mail, return receipt requested, or by binary means that the parcel has been redeemed and the lien or liens canceled, and that ~~the tax certificates may be redeemed. The county treasurer shall deposit into the tax certificate redemption fund created in the county treasury an amount equal to the total of the certificate redemption prices, together with interest on the certificate purchase price for~~

~~each tax certificate sold respecting the parcel at the rate of eighteen per cent per year paid under division (B) of this section for the period beginning when the payment was submitted by the certificate holder under division (B) of section 5721.37 of the Revised Code and ending when the parcel was redeemed. The payment on the certificate or certificates is forthcoming. The treasurer shall pay the tax certificate holder or holders promptly.~~

The county treasurer shall administer the tax certificate redemption fund for the purpose of redeeming tax certificates. Interest earned on the fund shall be credited to the county general fund.

(2) If a redemption payment plan is entered into pursuant to division (C)(1) of this section, the county treasurer immediately shall notify each certificate holder by ordinary first class or certified mail, ~~return receipt requested, or by binary means~~ of the terms of the plan. Installment payments made pursuant to the plan shall be deposited in the tax certificate redemption fund. Any overpayment of the installments shall be refunded to the person responsible for causing the overpayment if the person applies for a refund under this section. If the person responsible for causing the overpayment fails to apply for a refund under this section within five years from the date the plan is satisfied, an amount equal to the overpayment shall be deposited into the general fund of the county.

Upon satisfaction of the plan, the county treasurer shall indicate in the tax certificate register that the plan has been satisfied, and shall notify each certificate holder by ordinary first class or certified mail, ~~return receipt requested, or by binary means~~ that the plan has been satisfied and that ~~tax certificates may be redeemed~~ payment on the certificate or certificates is forthcoming. The treasurer shall pay each certificate holder promptly.

If a redemption payment plan becomes void, the county treasurer ~~immediately~~ shall notify each certificate holder by ordinary first class or certified mail, ~~return receipt requested or by binary means~~. If a certificate holder files a request for foreclosure under section 5721.37 of the Revised Code, upon the filing of the request for foreclosure, any money paid under the plan shall be refunded to the person that paid the money under the plan.

~~(E) To redeem a tax certificate with respect to which payment has been made in full under division (A), (B), or (C)(1) of this section or division (B)(1) of section 5721.37 of the Revised Code, the certificate holder shall present the tax certificate to the county treasurer, who shall prepare the redemption information. Upon presentation, the county auditor shall draw a warrant on the tax certificate redemption fund in the amount of the certificate redemption price and any applicable interest payable at the rate of eighteen per cent annually on the certificate under division (B) of this~~

~~section. For a parcel that was redeemed under division (B) of this section, the certificate holder who paid the amounts under division (B) of section 5721.37 of the Revised Code shall be reimbursed for those amounts, together with interest at the rate of eighteen per cent per year on the amount paid under division (B)(1) of that section for the period beginning when the payment was submitted by the certificate holder under division (B) of that section and ending when the parcel was redeemed. The treasurer shall mark all copies of the tax certificate "redeemed" and return the certificate to the certificate holder. The canceled certificate shall serve as a receipt evidencing redemption of the tax certificate. If a certificate holder fails to redeem a tax certificate within five years after notice is served under division (D) of this section that tax certificates may be redeemed, an amount equal to the certificate redemption price and any applicable interest payable at the rate of eighteen per cent annually on the certificate under division (B) of this section shall be deposited into the general fund of the county.~~

(3) Upon receipt of the payment required under division (B)(1) of section 5721.37 of the Revised Code, the treasurer shall pay all other certificate holders and indicate in the tax certificate register that such certificates have been satisfied.

Sec. 5721.381. (A) At any time prior to payment to the county treasurer by a certificate holder to initiate foreclosure proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may pay the county treasurer the certificate redemption price for the tax certificate with the oldest lien against the parcel. Such a payment cancels that lien and voids the certificate. Upon receipt of the payment, the county treasurer shall make an entry to that effect in the tax certificate register, shall deposit the payment to the credit of the tax certificate redemption fund, and shall notify the certificate holder by ordinary first class or certified mail or by binary means that the lien has been canceled and that payment on the certificate is forthcoming. The treasurer shall pay the holder of that certificate promptly.

(B) A person who makes a payment to the county treasurer under division (A) of this section for the tax certificate with the oldest lien may make additional payments under that division for other tax certificates related to the parcel, in priority order based on the earliest date of attachment of the liens.

(C) A property owner or other person shall make, and the county treasurer shall accept and apply, payments under this section only in priority order based on the earliest date of attachment of the liens.

Sec. 5721.39. (A) In its judgment of foreclosure rendered ~~with respect~~

~~to in~~ actions filed pursuant to section 5721.37 of the Revised Code, the court shall enter a finding that includes all of the following with respect to the certificate parcel ~~of the~~:

(1) The amount of the sum of the certificate redemption prices respecting for all the tax certificates sold against the parcel; interest

(2) Interest on the certificate purchase prices of ~~those~~ all certificates at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder under division (B) of section 5721.37 of the Revised Code;

(3) The amount paid under division (B)(2) of section 5721.37 of the Revised Code, plus interest at the rate of eighteen per cent per year for the period beginning on the day the certificate holder filed a request for foreclosure or a notice of intent to foreclose under division (A) of that section; ~~any~~

(4) Any delinquent taxes, assessments, penalties, interest, and charges on the parcel that are not covered by a tax certificate payment under division (B)(2) of section 5721.37 of the Revised Code; ~~and fees~~

(5) Fees and costs incurred in the foreclosure proceeding instituted against the parcel, including, without limitation, the fees and costs of the prosecuting attorney represented by the fee paid under division (B)(3) of section 5721.37 of the Revised Code, plus interest as provided in division (D)(2)(d) of this section, or the fees and costs of the private attorney representing the certificate holder, and charges paid or incurred in procuring title searches and abstracting services relative to the subject premises. ~~The~~

(B) The court may order the certificate parcel to be sold, without appraisal and as set forth in the prayer of the complaint, for not less than the amount of its finding, or, in the event ~~that the court finds~~ that the true value of the certificate parcel as determined by the county auditor is less than the certificate ~~purchase~~ redemption price, the court may, as prayed for in the complaint, issue a decree transferring fee simple title free and clear of all subordinate liens to the certificate holder. A decree of the court transferring fee simple title to the certificate holder is forever a bar to all rights of redemption with respect to the certificate parcel.

(C) Each certificate parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of certificate parcels shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

Whenever the officer charged to conduct the sale offers a certificate parcel for sale and no bids are made equal to at least the amount of the court's finding, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court.

(D) Upon the confirmation of a sale, the proceeds of the sale shall be applied as follows:

~~(A)(1)~~ The fees and costs incurred in the proceeding filed against the parcel pursuant to section 5721.37 of the Revised Code, ~~not including~~ shall be paid first, including attorney's fees of the certificate holder's attorney payable under division (F) of that section, or the county prosecutor's costs covered by the fee paid by the certificate holder under division (B)(3) of that section, shall be paid first.

~~(B)(2)~~ Following the payment required by division ~~(A)(D)(1)~~ of this section, the certificate holder that ~~requested the foreclosure~~ filed the notice of intent to foreclose or request for foreclosure with the county treasurer shall be paid the sum of the following amounts:

~~(1)(a)~~ The sum of the amount found due for the certificate redemption prices of all the tax certificates, ~~other than those certificates described in division (B)(1) of section 5721.37 of the Revised Code,~~ that are sold against the parcel ~~to the certificate holder requesting a notice of foreclosure;~~

~~(2)(b)~~ Any premium paid by the certificate holder at the time of purchase;

~~(3)(c)~~ Interest on the amounts paid by the certificate holder under division (B)(1) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder to the county treasurer and ending on the day immediately preceding the day on which the proceeds of the foreclosure sale are paid to the certificate holder;

~~(4)(d)~~ Interest on the amounts paid by the certificate holder under divisions (B)(2) and (3) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder under divisions (B)(2) and (3) of that section 5721.37 of the Revised Code and ending on the day immediately preceding the day on which the proceeds of the foreclosure sale are paid to the certificate holder pursuant to this section, except that such interest shall

not accrue for more than three years if the certificate was sold under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, or more than six years if the certificate was sold under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, after the day the amounts were paid by the certificate holder under divisions (B)(2) and (3) of section 5721.37 of the Revised Code ~~if the certificate holder did not submit that payment before the end of that six year period;~~

~~(5)(e)~~ The amounts paid by the certificate holder under divisions (B)(1), (2), and (3) of section 5721.37 of the Revised Code.

~~(E)(3)~~ Following the payment required by division ~~(B)(D)(2)~~ of this section, any amount due for taxes, assessments, charges, penalties, and interest not covered by the tax certificate holder's payment under division (B)(2) of section 5721.37 of the Revised Code shall be paid, including all taxes, assessments, charges, penalties, and interest payable subsequent to the entry of the finding and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to this division are insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the proceeds shall be paid to each claimant in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due, and those taxes, assessments, charges, penalties, and interest are deemed satisfied and shall be removed from the tax list and duplicate.

(4) Any residue of money from proceeds of the sale shall be disposed of as prescribed by section 5721.20 of the Revised Code.

(E) Unless the parcel previously was redeemed pursuant to section 5721.25 or 5721.38 of the Revised Code, upon the filing of the entry of confirmation of sale, the title to the parcel is incontestable in the purchaser and is free and clear of all liens and encumbrances, except a federal tax lien, notice of which lien is properly filed in accordance with section 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted pursuant to section 5721.37 of the Revised Code, and which lien was foreclosed in accordance with 28 U.S.C.A. 2410(c), and except for the easements and covenants of record running with the land or lots that were created prior to the time the taxes or assessments, for the nonpayment of which a tax certificate was issued and the parcel sold at foreclosure, became due and payable.

The title shall not be invalid because of any irregularity, informality, or

omission of any proceedings under this chapter or in any processes of taxation, if such irregularity, informality, or omission does not abrogate the provision for notice to holders of title, lien, or mortgage to, or other interests in, such foreclosed parcels, as prescribed in this chapter.

Sec. 5721.40. If any tax certificate parcel is twice offered for sale pursuant to section 5721.39 of the Revised Code and remains unsold for want of bidders, the officer who conducted the sales shall certify to the court that the parcel remains unsold after two sales. The court, by entry, shall order the parcel forfeited to the certificate holder who filed the request for foreclosure or notice of intent to foreclose under section 5721.37 of the Revised Code. The clerk of the court shall certify copies of the court's order to the county treasurer. The county treasurer shall notify the certificate holder by ordinary and certified mail, return receipt requested, that the parcel remains unsold, and shall instruct the certificate holder of the manner in which the holder shall obtain the deed to the parcel. The officer who conducted the sales shall prepare and record the deed conveying title to the parcel to the certificate holder.

Upon transfer of the deed to the certificate holder under this section, all right, title, claim, and interest in the certificate parcel are transferred to and vested in the certificate holder. The title to the parcel is incontestable in the certificate holder and is free and clear of all liens and encumbrances, except the following:

(A) A federal tax lien, notice of which was properly filed in accordance with section 317.09 of the Revised Code prior to the date that the foreclosure proceeding was instituted under section 5721.37 of the Revised Code and which was foreclosed in accordance with 28 U.S.C. 2410(c);

(B) Easements and covenants of record running with the land that were created prior to the time the taxes or assessments, for the nonpayment of which a tax certificate was issued, became due and payable.

Sec. 5721.41. ~~Interest~~ All interest required under sections 5721.30 to 5721.43 of the Revised Code is simple interest, to be calculated on a principal amount and not compounded on earned interest. The interest charged shall equal one-twelfth of the annual interest rate multiplied by the principal amount. Interest charges under those sections shall accrue on a monthly basis, on the first day of the month following the beginning of the period during which interest accrues and on the first day of each subsequent month. Notwithstanding the preceding sentence, the six per cent charge described in division (E)(1)(b) of section 5721.30 of the Revised Code shall apply even if the tax certificate is redeemed before the first day of the month following the date that the certificate is purchased.

Sec. 5721.42. ~~Not less than sixty nor more than ninety days following the date set by~~ After the settlement required under division (C) of section 323.12 or 323.17 321.24 of the Revised Code for the payment of the second installment of current taxes, the county treasurer shall notify the certificate holder of the most recently issued tax certificate, by ordinary first class or certified mail or by binary means, that the certificate holder may pay purchase a subsequent tax certificate by paying all delinquent taxes, assessments, penalties, interest, and charges on the related certificate parcel, the lien against which has not been transferred by the sale of a tax certificate. During the thirty days after receiving the notice, the certificate holder possesses the exclusive right to purchase the subsequent tax certificate by paying those amounts to the county treasurer. The amount of the payment shall constitute a separate lien against the certificate parcel that shall be evidenced by the issuance by the treasurer to the certificate holder of an additional tax certificate with respect to the delinquent taxes, assessments, penalties, interest, and fees so paid on the related certificate parcel. The amount of the payment as set forth in the tax certificate shall earn interest at the rate of eighteen per cent per year.

Sec. 5721.43. (A) ~~No~~ Without the prior written consent of the county treasurer, no person shall directly, through an agent, or otherwise, initiate contact with the owner of a parcel with respect to which the person holds a tax certificate to encourage or demand payment before one year has elapsed following the purchase of the certificate.

(B) A county treasurer may bar any person who violates division (A) of this section from bidding at a tax certificate sale conducted by the treasurer.

(C)(1) The attorney general or county prosecuting attorney, upon written request of a county treasurer, shall bring an action for an injunction against any person who has violated, is violating, or is threatening to violate division (A) of this section.

(2) Any person who violates division (A) of this section shall be assessed a civil penalty of not more than five thousand dollars for each offense to be paid into the state treasury to the credit of the general revenue fund. Upon written request of a county treasurer, the attorney general or county prosecuting attorney shall commence an action against any such violator. Any action under this division is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school

district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the sum of state aid amounts computed for the district under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N), ~~and (O)~~ of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; include amounts calculated under Section 269.30.80 of this act, as subsequently amended; and account for adjustments under division (C)(2) of section 3310.41 of the Revised Code.

(5) "State education aid," for a joint vocational school district, means the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

(1) Sixty-three per cent shall be credited to the general revenue fund.

(2) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(3) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as

apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March

1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and

1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district ~~eligible for payment under division (C) or (D) of this section:~~

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year as of the fifteenth day of July, by including in the definition of recognized valuation the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses, as defined in section 5751.20 of the Revised Code, for the school district or joint vocational school district for the preceding tax year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) The department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first and twenty-eighth days of February.

(2) From August 2002 through August 2017, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February, provided the difference computed under division (B)(3) of this section is not less than or equal to zero.

For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year,

the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

(G) Beginning in August 2002, and ending in May 2017, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), and (F) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(J) If all of the territory of a school district or joint vocational school

district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the fixed-rate levy loss and the fixed-sum levy loss of the successor district shall be equal to the sum of the fixed-rate levy losses and the fixed-sum levy losses for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the fixed-rate levy loss that is transferred to the recipient district shall be an amount equal to the transferring district's total fixed-rate levy loss times a fraction, the numerator of which is the value of electric company tangible personal property located in the part of the territory that was transferred, and the denominator of which is the total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division shall be determined for the most recent year for which data is available. Fixed-sum levy losses for both districts shall be determined under division (J)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. From February 2010 to August 2016, the new district shall be paid the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to the new district's fixed-rate levy loss multiplied by the percentage prescribed by the following schedule:

YEAR	PERCENTAGE
2010	70%
2011	70%
2012	60%
2013	50%
2014	40%
2015	24%
2016	11.5%
2017 and thereafter	0%

Fixed-sum levy losses for the districts shall be determined under division (J)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as

provided in division (J)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division (J)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division (J)(2) of this section or a new district under division (J)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.

The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;
(k) Employment service is or is to be provided;
(l) Employment placement service is or is to be provided;
(m) Exterminating service is or is to be provided;
(n) Physical fitness facility service is or is to be provided;
(o) Recreation and sports club service is or is to be provided;
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a

consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the

consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law

may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all ~~tangible~~ tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the

object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

- (i) The vendor's cost of the property sold;
- (ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;
- (iii) Charges by the vendor for any services necessary to complete the sale;
- (iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.
- (v) Installation charges;
- (vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

- (i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;
- (ii) The consumer identifies the consumer's self to the seller as a

member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a

bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such

incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to

time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to

as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and

manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from

towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing

scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and

packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion