

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the

construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of

benefits required by the federal act.

(B)(1) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(2) The Beginning July 1, 2011, and ending June 30, 2013, the director of natural resources annually may request the administrator of workers' compensation to transfer a portion of the investment earnings credited to the coal-workers pneumoconiosis fund as provided in this division. If the administrator receives a request from the director, the administrator of workers' compensation may, on the first day of July, or as soon as possible after that date, shall transfer a portion of from the investment earnings credited to the coal-workers pneumoconiosis fund an amount not to exceed three million dollars to the mine safety fund created in section 1561.24 of the Revised Code for the purposes specified in that section and an amount not to exceed one million five hundred thousand dollars to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code for the purposes specified in that section. The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules governing the transfer in order to ensure the solvency of the coal-workers pneumoconiosis fund. For that purpose, the rules may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the administrator determines appropriate that may be applied prior to a transfer.

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the coal-workers pneumoconiosis fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

Sec. 4141.08. (A) There is hereby created an unemployment

compensation advisory council appointed as follows:

(1) Three members who on account of their vocation, employment, or affiliations can be classed as representative of employers and three members who on account of their vocation, employment, or affiliation can be classed as representatives of employees appointed by the governor with the advice and consent of the senate. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly with respect to the legal, accounting, actuarial, economic, and social aspects of unemployment compensation;

(2) The chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to Chapter 4141. of the Revised Code is customarily referred;

(3) Two members of the senate appointed by the president of the senate; and

(4) Two members of the house of representatives appointed by the speaker of the house of representatives.

The speaker and the president shall arrange that of the six legislative members appointed to the council, not more than three are members of the same political party.

(B) Members appointed by the governor shall serve for a term of four years, each term ending on the same day as the date of their original appointment. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Vacancies shall be filled in the same manner as the original appointment but only for the unexpired part of a term.

(C) Members of the council shall serve without salary but, notwithstanding section 101.26 of the Revised Code, shall be paid a meeting stipend of fifty dollars per day each and their actual and necessary expenses while engaged in the performance of their duties as members of the council which shall be paid from funds allocated to pay the expenses of the council pursuant to this section.

(D) The council shall organize itself and select a chairperson or co-chairpersons and other officers and committees as it considers necessary. Seven members constitute a quorum and the council may act only upon the affirmative vote of seven members. The council shall meet at least once each calendar quarter but it may meet more often as the council considers necessary or at the request of the chairperson.

(E) The council may employ professional and clerical assistance as it

considers necessary and may request of the director of job and family services assistance as it considers necessary. The director shall furnish the council with office and meeting space as requested by the council.

(F) The director shall pay the operating expenses of the council ~~as determined by the council~~ from moneys in the unemployment compensation special administrative fund established in section 4141.11 of the Revised Code.

(G) The council shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and to the reasonable services of the employees of the department. It may request the director, or any of the employees appointed by the director, or any employer or employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the director, the unemployment compensation review commission, the governor, or the general assembly needed changes in this chapter, or in the rules of the department as it considers necessary.

Sec. 4141.11. There is hereby created in the state treasury the unemployment compensation special administrative fund. The fund shall consist of all interest collected on delinquent contributions pursuant to this chapter, all fines and forfeitures collected under this chapter, and all court costs and interest paid or collected in connection with the repayment of fraudulently obtained benefits pursuant to section 4141.35 of the Revised Code. All interest earned on the money in the fund shall be retained in the fund and shall not be credited or transferred to any other fund or account, except as provided in division (B) of this section. All moneys which are deposited or paid into this fund may be used by:

(A) The director of job and family services ~~with the approval of the unemployment compensation advisory council~~ whenever it appears that such use is necessary for:

(1) The proper administration of this chapter and no federal funds are available for the specific purpose for which the expenditure is to be made, provided the moneys are not substituted for appropriations from federal funds, which in the absence of such moneys would be available;

(2) The proper administration of this chapter for which purpose appropriations from federal funds have been requested and approved but not received, provided the fund would be reimbursed upon receipt of the federal appropriation;

(3) To the extent possible, the repayment to the unemployment compensation administration fund of moneys found by the proper agency of

the United States to have been lost or expended for purposes other than, or an amount in excess of, those found necessary by the proper agency of the United States for the administration of this chapter.

(B) The director or the director's deputy whenever it appears that such use is necessary for the payment of refunds or adjustments of interest, fines, forfeitures, or court costs erroneously collected and paid into this fund pursuant to this chapter.

(C) The director, to pay state disaster unemployment benefits pursuant to section 4141.292 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

(D) The director, to pay any costs attributable to the director that are associated with the sale of real property under section 4141.131 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

Whenever the balance in the unemployment compensation special administrative fund is considered to be excessive by the ~~council~~ director, the director shall request the director of budget and management to transfer to the unemployment compensation fund the amount considered to be excessive. Any balance in the unemployment compensation special administrative fund shall not lapse at any time, but shall be continuously available to the director of ~~jobs~~ job and family services ~~or to the council~~ for expenditures consistent with this chapter.

Sec. 4141.33. (A) ~~"Seasonal~~ As used in this section:

(1) "Reasonable assurance" means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season or seasonal period.

(2) "Seasonal employment" means employment of individuals hired primarily to perform services in an industry which because of climatic conditions or because of the seasonal nature of such industry it is customary to operate only during regularly recurring periods of forty weeks or less in any consecutive fifty-two weeks. ~~"Seasonal~~

(3) "Seasonal employer" means an employer determined by the director of job and family services to be an employer whose operations and business, with the exception of certain administrative and maintenance operations, are substantially all in a seasonal industry. ~~Any~~

(4) "Significantly" means forty per cent or more of an individual's base period consists of services performed in seasonal employment.

(B) Any employer who claims to have seasonal employment in a seasonal industry may file with the director a written application for classification of such employment as seasonal. Whenever in any industry it

is customary to operate because of climatic conditions or because of the seasonal nature of such industry only during regularly recurring periods of forty weeks or less duration, benefits shall be payable only during the longest seasonal periods which the best practice of such industry will reasonably permit. The director shall determine, after investigation, hearing, and due notice, whether the industry is seasonal and, if seasonal, establish seasonal periods for such seasonal employer. Until such determination by the director, no industry or employment shall be deemed seasonal.

~~(B)~~(C) When the director has determined such seasonal periods, the director shall also establish the proportionate number of weeks of employment and earnings required to qualify for seasonal benefit rights in place of the weeks of employment and earnings requirement stipulated in division (R) of section 4141.01 and section 4141.30 of the Revised Code, and the proportionate number of weeks for which seasonal benefits may be paid. An individual whose base period employment consists of only seasonal employment for a single seasonal employer and who meets the employment and earnings requirements determined by the director pursuant to this division will have benefit rights determined in accordance with this division, except benefits shall not be paid for any week between two successive seasonal periods. Benefit charges for such seasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The director may adopt rules for implementation of this section.

~~(C)~~(D) An individual whose base period employment consists of either seasonal employment with two or more seasonal employers or both seasonal employment and nonseasonal employment with employers subject to this chapter, will have benefit rights determined in accordance with division (R) of section 4141.01 and section 4141.30 of the Revised Code. Benefit charges for both seasonal and nonseasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The total seasonal and nonseasonal benefits during a benefit year cannot exceed twenty-six times the weekly benefit amount. Effective October 30, 2011, an individual who performs services that significantly consist of services performed in seasonal employment shall not be paid benefits for those services for any week in the period between two successive seasonal periods if the individual performed those services in the first of the seasonal periods and there is reasonable assurance that the individual will perform those services in the later of the seasonal periods. The director shall adopt rules for the implementation of this division.

~~(D)~~(E) Benefits shall not be paid to any individual on the basis of any

services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if the individual performed services in the first of the seasons, or similar periods, and there is a reasonable assurance that the individual will perform services in the later of the seasons, or similar periods.

~~(1) The term "reasonable assurance" as used in this division means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season.~~

~~(2)(F) The director shall adopt rules concerning the eligibility for benefits of individuals under divisions (D) and (E) of this division section.~~

Sec. 4301.12. The division of liquor control shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying them to the treasurer of state as provided by section 113.08 of the Revised Code.

A sum equal to three dollars and thirty-eight cents for each gallon of spirituous liquor sold by the division, JobsOhio, or a designee of JobsOhio during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund. All moneys received from permit fees, except B-2a and S permit fees from B-2a and S permit holders who do not also hold A-2 permits, shall be paid to the credit of the undivided liquor permit fund established by section 4301.30 of the Revised Code.

Except as otherwise provided by law, all moneys collected under Chapters 4301. and 4303. of the Revised Code shall be paid by the division into the state treasury to the credit of the liquor control fund, which is hereby created. In addition, revenue resulting from any contracts with the department of commerce pertaining to the responsibilities and operations described in this chapter may be credited to the fund. Amounts in the liquor control fund may be used to pay the operating expenses of the liquor control commission.

Whenever, in the judgment of the director of budget and management, the amount in the liquor control fund is in excess of that needed to meet the maturing obligations of the division, as working capital for its further operations, to pay the operating expenses of the commission, and for the alcohol testing program under section 3701.143 of the Revised Code, the director shall transfer the excess to the credit of the general revenue fund. If the director determines that the amount in the liquor control fund is insufficient, the director may transfer money from the general revenue fund

to the liquor control fund.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2009~~ 2011, through June 30, ~~2011~~ 2013, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

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-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 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 one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b)(i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(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. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (1) Hotels;
- (2) Restaurants;
- (3) Retail sales establishments;
- (4) Enclosed shopping centers;
- (5) Museums;
- (6) Performing arts theaters;
- (7) Motion picture theaters;
- (8) Night clubs;
- (9) Convention facilities;
- (10) Sports facilities;
- (11) Entertainment facilities or complexes;

(12) Any combination of the establishments described in division (A)(1) to (11) of this section that provide similar services to the community.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a community

entertainment district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a community entertainment district shall contain all of the following:

- (1) The applicant's name and address;
- (2) A map or survey of the proposed community entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;
- (3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed community improvement district and any other establishments located in the proposed community entertainment district that are not described in division (A) of this section;
- (4) If some or all of the establishments within the proposed community entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;
- (5) Evidence that the uses of land within the proposed community entertainment district are in accord with the municipal corporation's or township's master zoning plan or map;
- (6) A certificate from a surveyor or engineer licensed under Chapter 4733. of the Revised Code indicating that the area encompassed by the proposed community entertainment district contains no less than twenty contiguous acres;
- (7) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application described in division (B) of this section relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application described in division (B) of this section relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the

municipal corporation, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees.

If the legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a community entertainment district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a community entertainment district may lose this designation as provided in this division. The legislative

authority of a municipal corporation in which a community entertainment district is located, or the board of township trustees of the township in whose unincorporated area a community entertainment district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a community entertainment district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a community entertainment district.

Sec. 4301.81. (A) As used in this section:

(1) "Revitalization district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (a) Hotels;
- (b) Restaurants;
- (c) Retail sales establishments;
- (d) Enclosed shopping centers;
- (e) Museums;
- (f) Performing arts theaters;
- (g) Motion picture theaters;
- (h) Night clubs;
- (i) Convention facilities;
- (j) Sports facilities;
- (k) Entertainment facilities or complexes;

(l) Any combination of the establishments described in divisions (A)(1)(a) to (k) of this section that provide similar services to the community.

(2) "Municipal corporation" means a municipal corporation with a population of less than one hundred thousand.

(3) "Township" means a township with a population in its unincorporated area of less than one hundred thousand.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this

designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a revitalization district shall contain all of the following:

- (1) The applicant's name and address;
- (2) A map or survey of the proposed revitalization district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;
- (3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed revitalization district and any other establishments located in the proposed revitalization district that are not described in division (A) of this section;
- (4) If some or all of the establishments within the proposed revitalization district have not yet been developed, the proposed time frame for completing the development of these establishments;
- (5) Evidence that the uses of land within the proposed revitalization district are in accord with the municipal corporation's or township's master zoning plan or map; and
- (6) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive

weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the municipal legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority. Not more than one revitalization district shall be designated within the municipal corporation.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees. Not more than one revitalization district shall be designated within the unincorporated area of the township.

If the municipal legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a revitalization district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a revitalization district may lose this designation as provided in this division. The legislative authority of a municipal corporation in which a revitalization district is located, or the board of township trustees of the township in whose unincorporated area a revitalization district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a revitalization district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a revitalization district.

Sec. 4313.01. As used in this chapter:

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund.

(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code.

(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for therein, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury, provided that from and after the

initial transfer of the enterprise acquisition project to JobsOhio and until the transfer back to the state under division (D) of section 4313.02 of the Revised Code, the reference in division (B)(4) of section 4301.10 of the Revised Code to all costs and expenses of the division and also an adequate working capital reserve for the division shall be to all costs and expenses of JobsOhio and providing an adequate working capital reserve for JobsOhio.

(D) "Transfer" means an assignment and sale, conveyance, granting of a franchise, lease, or transfer of all or an interest.

(E) "Transfer agreement" means the agreement entered into between the state and JobsOhio providing for the transfer of the enterprise acquisition project pursuant to section 4313.02 of the Revised Code and any amendments or supplements thereto.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant

of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain

statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or

provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on the effective date of this section, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor control fund created in section 4301.12 of the Revised Code.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11

of the Revised Code.

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid.

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate.

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section.

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not acquired situs on the first day of January, but that acquires situs during the year, shall attach on the next first day of January. The lien shall continue until the tax, including any penalty or interest, is paid.

(3)(a) The situs of a manufactured or mobile home located in this state on the first day of January is the local taxing district in which the home is located on that date.

(b) The situs of a manufactured or mobile home not located in this state on the first day of January, but located in this state subsequent to that date, is the local taxing district in which the home is located thirty days after it is acquired or first enters this state.

(4) The tax is collected by and paid to the county treasurer of the county containing the taxing district in which the home has its situs.

(D) The manufactured home tax shall be computed and assessed by the county auditor of the county containing the taxing district in which the home has its situs as follows:

(1) On a home that acquired situs in this state prior to January 1, 2000:

(a) By multiplying the assessable value of the home by the tax rate of the taxing district in which the home has its situs, and deducting from the product thus obtained any reduction authorized under section 4503.065 of the Revised Code. The tax levied under this formula shall not be less than thirty-six dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year		
in which the		
home is owned by the		
current owner	x	80%
2nd calendar year	x	75%
3rd "	x	70%
4th "	x	65%
5th "	x	60%
6th "	x	55%
7th "	x	50%
8th "	x	45%
9th "	x	40%
10th and each year thereafter	x	35%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year
in which the
home is owned by the

current owner	x	95%
2nd calendar year	x	90%
3rd "	x	85%
4th "	x	80%
5th "	x	75%
6th "	x	70%
7th "	x	65%
8th "	x	60%
9th "	x	55%
10th and each year thereafter	x	50%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000:

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code.

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section.

(3) On or before the fifteenth day of January each year, the county auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the tax commissioner, by journal entry, may extend the times for delivery of the duplicate for an additional fifteen days upon receiving a written application from the county auditor regarding an extension for the delivery of the duplicate, or from the county treasurer regarding an extension of the time for the billing and collection of taxes. The application shall contain a statement describing the emergency that will cause the unavoidable delay and must be received by the tax commissioner on or before the last day of the month preceding the day delivery of the duplicate is otherwise required. When an extension is granted for delivery of the duplicate, the time period for payment of taxes shall be extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or

would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this state prior to January 1, 2000, shall be taxed pursuant to division (D)(2) of this section if no manufactured home tax had been paid for the home and the home was not exempted from taxation pursuant to division (E) of this section for the year for which the taxes were not paid.

(6)(a) Immediately upon receipt of any manufactured home tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in division (F) of this section, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on that duplicate with taxes, or to an agent designated by such person, the tax bill prescribed by the tax commissioner under division (D)(7) of this section. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by that person a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period. A change in the mailing address of any tax bill shall be made in writing to the county treasurer. Failure to receive a bill required by this section does not excuse failure or delay to pay any taxes shown on the bill or, except as provided in division (B)(1) of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

(b) After delivery of the copy of the delinquent manufactured home tax list under division (H) of this section, the county treasurer may prepare and mail to each person in whose name a home is listed an additional tax bill showing the total amount of delinquent taxes charged against the home as shown on the list. The tax bill shall include a notice that the interest charge prescribed by division (G) of this section has begun to accrue.

(7) Each tax bill prepared and mailed or delivered under division (D)(6) of this section shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner. In addition to the information required by the commissioner, each tax bill shall contain the following information:

(a) The taxes levied and the taxes charged and payable against the manufactured or mobile home;

(b) The following notice: "Notice: If the taxes are not paid within sixty days after the county auditor delivers the delinquent manufactured home tax list to the county treasurer, you and your home may be subject to collection proceedings for tax delinquency." Failure to provide such notice has no effect upon the validity of any tax judgment to which a home may be subjected.

(c) In the case of manufactured or mobile homes taxed under division (D)(2) of this section, the following additional information:

(i) The effective tax rate. The words "effective tax rate" shall appear in boldface type.

(ii) The following notice: "Notice: If the taxes charged against this home have been reduced by the 2-1/2 per cent tax reduction for residences occupied by the owner but the home is not a residence occupied by the owner, the owner must notify the county auditor's office not later than March 31 of the year for which the taxes are due. Failure to do so may result in the owner being convicted of a fourth degree misdemeanor, which is punishable by imprisonment up to 30 days, a fine up to \$250, or both, and in the owner having to repay the amount by which the taxes were erroneously or illegally reduced, plus any interest that may apply.

If the taxes charged against this home have not been reduced by the 2-1/2 per cent tax reduction and the home is a residence occupied by the owner, the home may qualify for the tax reduction. To obtain an application for the tax reduction or further information, the owner may contact the county auditor's office at (insert the address and telephone number of the county auditor's office)."

(E)(1) A manufactured or mobile home is not subject to this section when any of the following applies:

(a) It is taxable as personal property pursuant to section 5709.01 of the

Revised Code. Any manufactured or mobile home that is used as a residence shall be subject to this section and shall not be taxable as personal property pursuant to section 5709.01 of the Revised Code.

(b) It bears a license plate issued by any state other than this state unless the home is in this state in excess of an accumulative period of thirty days in any calendar year.

(c) The annual tax has been paid on the home in this state for the current year.

(d) The tax commissioner has determined, pursuant to section 5715.27 of the Revised Code, that the property is exempt from taxation, or would be exempt from taxation under Chapter 5709. of the Revised Code if it were classified as real property.

(2) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is not subject to this section if it is unused or unoccupied and stored at the owner's normal place of residence or at a recognized storage facility.

(3) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is subject to this section and shall be taxed as a manufactured or mobile home if it has a situs longer than thirty days in one location and is connected to existing utilities, unless either of the following applies:

(a) The situs is in a state facility or a camping or park area as defined in division (C), (Q), (S), or (V) of section 3729.01 of the Revised Code.

(b) The situs is in a camping or park area that is a tract of land that has been limited to recreational use by deed or zoning restrictions and subdivided for sale of five or more individual lots for the express or implied purpose of occupancy by either self-contained recreational vehicles as defined in division (T) of section 3729.01 of the Revised Code or by dependent recreational vehicles as defined in division (D) of section 3729.01 of the Revised Code.

(F) Except as provided in division (D)(3) of this section, the manufactured home tax is due and payable as follows:

(1) When a manufactured or mobile home has a situs in this state, as provided in this section, on the first day of January, one-half of the amount of the tax is due and payable on or before the first day of March and the balance is due and payable on or before the thirty-first day of July. At the option of the owner of the home, the tax for the entire year may be paid in full on the first day of March.

(2) When a manufactured or mobile home first acquires a situs in this state after the first day of January, no tax is due and payable for that year.

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) of this section, if one-half of the current taxes charged under this section against a manufactured or mobile home, together with the full amount of any delinquent taxes, are not paid on or before the first day of March in that year, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes. If the total amount of all such taxes is not paid on or before the thirty-first day of July, next thereafter, or on or before the last day for payment as extended pursuant to section 4503.063 of the Revised Code, a like penalty shall be charged on the balance of the total amount of the unpaid current taxes.

(b) After a valid delinquent tax contract that includes unpaid current taxes from a first-half collection period described in division (F) of this section has been entered into under section 323.31 of the Revised Code, no ten per cent penalty shall be charged against such taxes after the second-half collection period while the delinquent tax contract remains in effect. On the day a delinquent tax contract becomes void, the ten per cent penalty shall be charged against such taxes and shall equal the amount of penalty that would have been charged against unpaid current taxes outstanding on the date on which the second-half penalty would have been charged thereon under division (G)(1)(a) of this section if the contract had not been in effect.

(2)(a) On the first day of the month following the last day the second installment of taxes may be paid without penalty beginning in 2000, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list compiled under division (H) of this section.

(b) On the first day of December beginning in 2000, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list.

(c) After a valid undertaking has been entered into for the payment of any delinquent taxes, no interest shall be charged against such delinquent taxes while the undertaking remains in effect in compliance with section 323.31 of the Revised Code. If a valid undertaking becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the undertaking was in effect. The interest shall be charged on the day the undertaking becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (G)(1) and (2) of this section had the undertaking not been in effect.

(3) If the full amount of the taxes due at either of the times prescribed by division (F) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in this division for failure to make that payment by the prescribed time.

(4) The treasurer shall compile and deliver to the county auditor a list of all tax payments the treasurer has received as provided in division (G)(3) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall compile annually a "delinquent manufactured home tax list" consisting of homes the county treasurer's records indicate have taxes that were not paid within the time prescribed by divisions (D)(3) and (F) of this section, have taxes that remain unpaid from prior years, or have unpaid tax penalties or interest that have been assessed.

(2) Within thirty days after the settlement under division (H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ the county auditor shall deliver a copy of the delinquent manufactured home tax list to the county treasurer. The auditor shall update and publish the delinquent manufactured home tax list annually in the same manner as delinquent real property tax lists are published. The county auditor ~~shall~~ may apportion the cost of publishing the list among taxing districts in proportion to the amount of delinquent manufactured home taxes so published that each taxing district is entitled to receive upon collection of those taxes, or the county auditor may charge the owner of a home on the list a flat fee established under section 319.54 of the Revised Code for the cost of publishing the list and, if the fee is not paid, may place the fee upon the delinquent manufactured

home tax list as a lien on the listed home, to be collected as other manufactured home taxes.

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed in the following manner: four per cent shall be allowed as compensation to the county auditor for the county auditor's service in assessing the taxes; two per cent shall be allowed as compensation to the county treasurer for the services the county treasurer renders as a result of the tax levied by this section. Such amounts shall be paid into the county treasury, to the credit of the county general revenue fund, on the warrant of the county auditor. Fees to be paid to the credit of the real estate assessment fund shall be collected pursuant to division (C) of section 319.54 of the Revised Code and paid into the county treasury, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the

county in which the taxes are collected and paid in the same ratio as those taxes were collected for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a manufactured or mobile home in this state except as provided in sections 4503.04 and 5741.02 of the Revised Code.

(J) An agreement to purchase or a bill of sale for a manufactured home shall show whether or not the furnishings and equipment are included in the purchase price.

(K) If the county treasurer and the county prosecuting attorney agree that an item charged on the delinquent manufactured home tax list is uncollectible, they shall certify that determination and the reasons to the county board of revision. If the board determines the amount is uncollectible, it shall certify its determination to the county auditor, who shall strike the item from the list.

(L)(1) The county auditor shall appraise at its true value any manufactured or mobile home in which ownership is transferred or which first acquires situs in this state on or after January 1, 2000, and any manufactured or mobile home the owner of which has elected, under division (D)(4) of this section, to have the home taxed under division (D)(2) of this section. The true value shall include the value of the home, any additions, and any fixtures, but not any furnishings in the home. In determining the true value of a manufactured or mobile home, the auditor shall consider all facts and circumstances relating to the value of the home, including its age, its capacity to function as a residence, any obsolete characteristics, and other factors that may tend to prove its true value.

(2)(a) If a manufactured or mobile home has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time prior to the determination of true value, the county auditor shall consider the sale price of the home to be the true value for taxation purposes.

(b) The sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the home if either of the following occurred after the sale:

(i) The home has lost value due to a casualty.

(ii) An addition or fixture has been added to the home.

(3) The county auditor shall have each home viewed and appraised at least once in each six-year period in the same year in which real property in the county is appraised pursuant to Chapter 5713. of the Revised Code, and shall update the appraised values in the third calendar year following the

appraisal. The person viewing or appraising a home may enter the home to determine by actual view any additions or fixtures that have been added since the last appraisal. In conducting the appraisals and establishing the true value, the auditor shall follow the procedures set forth for appraising real property in sections 5713.01 and 5713.03 of the Revised Code.

(4) The county auditor shall place the true value of each home on the manufactured home tax list upon completion of an appraisal.

(5)(a) If the county auditor changes the true value of a home, the auditor shall notify the owner of the home in writing, delivered by mail or in person. The notice shall be given at least thirty days prior to the issuance of any tax bill that reflects the change. Failure to receive the notice does not invalidate any proceeding under this section.

(b) Any owner of a home or any other person or party listed in division (A)(1) of section 5715.19 of the Revised Code may file a complaint against the true value of the home as appraised under this section. The complaint shall be filed with the county auditor on or before the thirty-first day of March of the current tax year or the date of closing of the collection for the first half of manufactured home taxes for the current tax year, whichever is later. The auditor shall present to the county board of revision all complaints filed with the auditor under this section. The board shall hear and investigate the complaint and may take action on it as provided under sections 5715.11 to 5715.19 of the Revised Code.

(c) If the county board of revision determines, pursuant to a complaint against the valuation of a manufactured or mobile home filed under this section, that the amount of taxes, assessments, or other charges paid was in excess of the amount due based on the valuation as finally determined, then the overpayment shall be refunded in the manner prescribed in section 5715.22 of the Revised Code.

(d) Payment of all or part of a tax under this section for any year for which a complaint is pending before the county board of revision does not abate the complaint or in any way affect the hearing and determination thereof.

(M) If the county auditor determines that any tax or other charge or any part thereof has been erroneously charged as a result of a clerical error as defined in section 319.35 of the Revised Code, the county auditor shall call the attention of the county board of revision to the erroneous charges. If the board finds that the taxes or other charges have been erroneously charged or collected, it shall certify the finding to the auditor. Upon receipt of the certification, the auditor shall remove the erroneous charges on the manufactured home tax list or delinquent manufactured home tax list in the

same manner as is prescribed in section 319.35 of the Revised Code for erroneous charges against real property, and refund any erroneous charges that have been collected, with interest, in the same manner as is prescribed in section 319.36 of the Revised Code for erroneous charges against real property.

(N) As used in this section and section 4503.061 of the Revised Code:

(1) "Manufactured home taxes" includes taxes, penalties, and interest charged under division (C) or (G) of this section and any penalties charged under division (G) or (H)(5) of section 4503.061 of the Revised Code.

(2) "Current taxes" means all manufactured home taxes charged against a manufactured or mobile home that have not appeared on the manufactured home tax list for any prior year. Current taxes become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent.

(3) "Delinquent taxes" means:

(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year and the costs of publication under division (H)(2) of this section, and that remain unpaid;

(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest and the costs of publication under division (H)(2) of this section.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle

would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code, the court shall issue an order that waives the immobilization that otherwise would be required pursuant to either of those divisions. The immobilization waiver order shall be in effect for the period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued, subject to division (D) of this section. The immobilization waiver order shall specify the period of time for which it is in effect. The court shall provide a copy of an immobilization waiver order to the offender and to the family or household member of the offender who filed the motion requesting that the immobilization order not be issued and shall place a copy of the immobilization waiver order in the record in the case. The court shall impose an immobilization waiver fee in the amount of fifty dollars. The court shall determine whether the fee is to be paid by the offender or by the family or household member. The clerk of the court shall deposit all of the fees collected during a month on or before the twenty-third day of the following month into the county or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(C) If a court pursuant to division (B) of this section issues an immobilization waiver order, the order shall identify the family or household member who requested the order and the vehicle to which the order applies, shall identify the family or household members who are permitted to operate the vehicle, and shall identify the offender and specify that the offender is not permitted to operate the vehicle. The immobilization waiver order shall require that the family or household member display on the vehicle to which the order applies restricted license plates that are issued under section 4503.231 of the Revised Code for the entire period for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(D) A family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section shall not permit the offender to operate the vehicle. If a family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section permits the offender to operate the vehicle, both of the following apply:

(1) The court that issued the immobilization waiver order shall terminate that order and shall issue an immobilization order in accordance with section 4503.233 of the Revised Code that applies to the vehicle, and the immobilization order shall be in effect for the remaining period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(2) The conduct of the family or household member in permitting the offender to operate the vehicle is a violation of section 4511.203 of the Revised Code.

(E) No offender shall operate a motor vehicle subject to an immobilization waiver order. Whoever violates this division is guilty of operating a motor vehicle in violation of an immobilization waiver, a misdemeanor of the first degree.

(F) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code, except that the person must be currently residing with the offender.

Sec. 4503.70. The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is a member in good standing of the grand lodge of free and accepted masons of Ohio may apply to the registrar for the registration of the vehicle and issuance of freemason license plates. The application for freemason license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of satisfactory evidence showing that the applicant is a member in good standing of the grand lodge of free and accepted masons of Ohio, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of freemason license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, freemason license plates shall be inscribed with identifying words and a

symbol or logo designed by the grand lodge of free and accepted masons of Ohio and approved by the registrar. Freemason license plates shall bear county identification stickers that identify the county of registration by name or number.

Freemason license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for freemason license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The additional fee of ten dollars shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of freemason license plates, and shall be transmitted by the registrar to the treasurer of state for deposit into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4503.93. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio "volunteer" license plates. The application for Ohio "volunteer" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Ohio "volunteer" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, Ohio "volunteer" license plates shall be inscribed with words and markings designed by the Ohio ~~community~~ commission on service council and volunteerism created by section 121.40 of the Revised Code and approved by the registrar. Ohio "volunteer" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Ohio "volunteer" license plates and a validation sticker, or a validation sticker alone, shall be issued upon receipt of a contribution as

provided in division (C) of this section and upon payment of the regular license tax prescribed in section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, a bureau of motor vehicles fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the Ohio ~~community~~ commission on service council and volunteerism gifts and donations fund created by section 121.403 of the Revised Code. The ~~council~~ commission shall use all such contributions for the purposes described in divisions (B)(2) and (3) of that section.

(2) The registrar shall deposit the bureau of motor vehicles fee of ten dollars specified in division (B) of this section, which is for the purpose of compensating the bureau for the additional services required in issuing Ohio "volunteer" license plates, in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4504.02. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the county's portion of the costs and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways; paying the county's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads; paying any costs apportioned to the county under section 4907.47 of the Revised Code; paying debt service charges on notes or bonds of the county issued for such purposes; paying all or part of the costs and expenses of municipal corporations in planning, constructing, reconstructing, improving, maintaining, and repairing highways, roads, and streets designated as necessary or conducive to the orderly and efficient flow of traffic within and through the county pursuant to section 4504.03 of the Revised Code; purchasing, erecting, and maintaining street and traffic signs and markers; purchasing, erecting, and maintaining traffic lights and signals; and to supplement revenue already available for such purposes, any county by resolution adopted by its board of county commissioners may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code,

upon the operation of motor vehicles on the public roads or highways. Such tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after such resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Sec. 4504.021. The question of repeal of a county permissive tax adopted as an emergency measure pursuant to section 4504.02, 4504.15, or 4504.16 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next

general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Sec. 4504.15. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.17 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks, ~~the~~. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it. A county is not required to enact the tax authorized by section 4504.02 of the Revised Code in order to levy the tax authorized by this section, but no county may have in effect the tax authorized by this section if it repeals the tax authorized by section 4504.02 of the Revised Code after April 1, 1987.

Sec. 4504.16. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county that currently levies the tax authorized by section 4504.15 of the Revised Code may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by that section and by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.171 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section

7.16 of the Revised Code, once a week for two consecutive weeks, ~~the~~. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Nothing in this section or in section 4504.15 of the Revised Code shall be interpreted as preventing a county from levying the county motor vehicle license taxes authorized by such sections in a single resolution.

Sec. 4504.18. For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; for the construction, reconstruction, improvement, maintenance, and repair of township roads, bridges, and culverts; for purchasing, erecting, and maintaining traffic signs, markers, lights, and signals; for purchasing road machinery and equipment, and planning, constructing, and maintaining suitable buildings to house such equipment; for paying any costs apportioned to the township under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, the board of township trustees may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles on the public roads and highways in the unincorporated territory of the township. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the owners of which reside in the unincorporated area of the township and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of township trustees shall conduct two public hearings thereon, the second

hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum in the same manner, except as to the form of the petition, as provided in division (H) of section 519.12 of the Revised Code for a proposed amendment to a township zoning resolution. In addition, a petition under this section shall be governed by the rules specified in section 3501.38 of the Revised Code. No resolution levying a tax under this section for which a referendum vote has been requested shall go into effect unless approved by a majority of those voting upon it.

A township license tax levied under this section shall continue in effect until repealed.

Sec. 4505.181. (A) Notwithstanding ~~divisions (A)(2), (5), and (6) of section 4505.18 of the Revised Code~~, a motor vehicle dealer or person acting on behalf of a motor vehicle dealer may display, offer for sale, or sell a used motor vehicle and a manufactured housing dealer or person acting on behalf of a manufactured housing dealer may display, offer for sale, or sell a used manufactured home or used mobile home without having first obtained a certificate of title for the vehicle in the name of the dealer ~~as required by this chapter if the dealer or person acting on behalf of the dealer complies with divisions (A)(1)(a) and (2) of this section, or divisions (A)(1)(b) and (2) of by complying with this section, as follows:~~

(1)(a) The dealer or person acting on behalf of the dealer shall possess a bill of sale for each used motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section or a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and shall retain copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal

business hours.

~~(2) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer, or if the attorney general has paid a retail purchaser of the dealer or a secured party under division (C)(D), (E), or (G) of this section within three years prior to such date, the dealer posts shall post with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles, manufactured homes, or mobile homes who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with this section. Failure to post a bond constitutes a deceptive act or practice in connection with a consumer transaction and is a violation of section 1345.02 of the Revised Code.~~ The dealer's surety shall notify the registrar and attorney general when a bond of a motor vehicle dealer is canceled and shall notify the manufactured homes commission and the attorney general when a bond of a manufactured housing dealer is canceled. Such notification of cancellation shall include the effective date of and reason for cancellation.

~~(b) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle, used manufactured home, or used mobile home for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recision fund created by section 1345.52 of the Revised Code.~~

~~(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the~~

~~dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal business hours.~~

(B) If a retail purchaser purchases a used motor vehicle, used manufactured home, or used mobile home for which the dealer, pursuant to and in accordance with division (A) of this section, does not have a certificate of title issued in the name of the dealer at the time of the sale, the retail purchaser has an unconditional right to demand the dealer rescind the transaction ~~and the dealer has an obligation to refund to the retail purchaser the full purchase price of the vehicle~~, if one of the following applies:

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser.

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement.

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser.

(4) The title for the vehicle indicates that it is a "buyback" vehicle as defined in section 1345.71 of the Revised Code, and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement.

(5) The motor vehicle is a used manufactured home or used mobile home, as defined by section ~~5739.021~~ 4781.01 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

(C)(1) If any of the circumstances circumstance described in divisions division (B)(1) to (4) of this section applies, a retail purchaser or the retail purchaser's representative shall ~~notify~~ provide the dealer and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price notice of the motor vehicle request for rescission. Such notification shall occur not later than sixty days from the date the motor vehicle is titled in the name of the retail purchaser. The dealer shall have the

opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(2) If any of the circumstances described in divisions (B)(2), (3), or (4) of this section apply, a retail purchaser or the retail purchaser's representative shall provide notice to the dealer of a request for rescission. Such notification shall occur not later than one hundred eighty days from the date the vehicle is titled in the name of the retail purchaser. Upon timely notification, the dealer shall have the opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(3) If any of the circumstances described in division (B)(5) of this section apply, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction.

(4) If the retail purchaser does not deliver notice to the dealer within the applicable time period specified in division (C)(1), (2), or (3) of this section, the retail purchaser shall not be entitled to any recovery or have any cause of action under this section.

(5) Nothing in this division (C) of this section shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties.

~~(C)(D)~~ If a retail purchaser notifies a dealer of one or more of the circumstances listed in division (B) of this section within the applicable time period specified in division (C)(1), (2), or (3) of this section and the dealer

fails to ~~refund to~~ comply with the retail purchaser the full purchase price requirements for recision as prescribed in division (C) of ~~the vehicle~~ this section or reach a satisfactory compromise with the retail purchaser within ~~three~~ seven business days of presentation of the retail purchaser's recision claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser.

~~(D)~~(E)(1) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(4)~~(5) of this section exist, and notification has been given within the applicable time period specified in division (C)(1), (2), or (3) of this section, the attorney general shall cause at maximum the full purchase price of the vehicle, manufactured home, or mobile home plus the cost of any additional temporary license placards to be paid to the retail purchaser from the fund ~~after~~. The attorney general may require delivery of the vehicle, manufactured home, or mobile home to the attorney general prior to reimbursement from the fund. Reimbursement shall be only in such a manner as to do either of the following:

(a) Reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle;

(b) If the retail purchaser wishes to retain the vehicle, the attorney general, in the attorney general's sole discretion, may pay a lienholder of record or other holder of a secured interest in such manner that title can be transferred to the retail purchaser free of encumbrances, other than a security interest granted by the retail purchaser at the time of vehicle purchase.

(2) The attorney general, in the attorney general's sole discretion, also may cause the cost of additional temporary license placards to be paid from the fund. The

(F) The attorney general may sell or otherwise dispose of any used motor vehicle, manufactured home, or mobile home that is delivered to the attorney general under this section, and may collect the proceeds of any bond posted under division (A) of this section by a dealer who has failed to comply with division ~~(C)~~(D) of this section. The proceeds from all such sales and collections shall be deposited into the title defect recision fund for use as specified in section 1345.52 of the Revised Code.

~~(E)~~(G) If a dealer fails to submit payment of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the circumstances in divisions (B)(1) to (5) applies, the retail purchaser may apply to the attorney general for payment to the secured creditor from the

fund. The attorney general shall demand immediate payment from the dealer and if payment has not been made or is not immediately forthcoming, the attorney general may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

(H) Failure by a dealer to comply with both ~~division (A)~~ or divisions (B) and (C) of this section constitutes a deceptive act or practice in connection with a consumer transaction, and is a violation of section 1345.02 of the Revised Code.

~~(F)(I)~~ The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

~~(G) All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into~~ (J) If, at any time during any calendar year, the balance in the title defect rescision fund the amount described in division (A)(1)(b) of this section beginning with the calendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to, the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars may assess all motor vehicle dealers licensed under Chapter 4517. of the Revised Code and all manufactured housing dealers licensed under Chapter 4781. of the Revised Code one hundred fifty dollars for deposit into the title defect rescision fund until the balance in the fund reaches three hundred thousand dollars. A notice of assessment shall be sent to each dealer at its licensed location.

If a motor vehicle dealer or manufactured housing dealer fails to comply with this division, the attorney general may bring a civil action in a court of competent jurisdiction to collect the amount the dealer failed to pay to the attorney general for deposit into the fund.

(K) Nothing in this section shall be construed as providing for payment of attorney fees to the retail purchaser.

(L) As used in this section:

(1) "Full purchase price" means the contract price, including charges for dealer installed options and accessories, all finance, credit insurance, and service contract charges incurred by the retail purchaser, all sales tax,

license and registration fees, and the amount of any negative equity that was not already paid by the dealer to a third party to satisfy a lien, as reflected in the contract.

(2) "Retail purchaser" means a person, other than a motor vehicle dealer or a manufactured housing dealer, who in good faith purchases a used motor vehicle for purposes other than resale.

Sec. 4506.071. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a commercial driver's license or commercial driver's temporary instruction permit issued pursuant to this chapter.

Sec. 4507.111. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to any driver's or commercial license or permit, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit issued by this state that is the subject of the notice.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended pursuant to any provision of the Revised Code other than division (G) of section 4511.19 of the Revised Code and other than section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record or the mayor of the mayor's court that suspended the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended pursuant to division (G)(1)(b) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the

trial judge of the court of record that suspended the license shall order the impoundment of the identification license plates of the motor vehicle the offender was operating at the time of the offense and the immobilization of that vehicle in accordance with section 4503.233 and division (G)(1)(b) of section 4511.19 or division ~~(B)(C)~~(2)(a) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(3) When the license of any person is suspended pursuant to division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record that suspended the license shall order the criminal forfeiture to the state of the motor vehicle the offender was operating at the time of the offense in accordance with section 4503.234 and division (G)(1)(c), (d), or (e) of section 4511.19 or division ~~(B)(C)~~(2)(b) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(C)(1) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code applies, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates in accordance with section 4503.233 and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code applies, the trial judge of the court of record that imposes sentence shall order the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense in accordance with section 4503.234 and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(D)(4) When a person is convicted of or pleads guilty to a violation of division (A) of section 4510.16 of the Revised Code or a substantially equivalent municipal ordinance, division (B) of section 4510.16 or division (B) of section 4510.161 of the Revised Code applies in determining whether the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates or the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense is authorized or required. The trial judge of the court of record or the mayor of the mayor's court that imposes sentence may impound the identification license plates of any other vehicle registered in the name of that person.

(E)(1) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(1) or (2) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle that was involved in the commission of the offense and the impoundment of its identification license plates in accordance with division (C)(1) or (2) of section 4511.203 and section 4503.233 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(3) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the criminal forfeiture to the state of the vehicle that was involved in the commission of the offense in accordance with division (C)(3) of section 4511.203 and section 4503.234 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(F) Except as provided in section 4503.233 or 4503.234 of the Revised Code, when the certificate of registration, the identification license plates, or both have been impounded, division (B) of section 4507.02 of the Revised Code is applicable.

(G) As used in this section, "municipal OVI offense" has the same meaning as in section 4511.181 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.

(5)(a) If a law enforcement officer arrests 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 and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining 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. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(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 of motor vehicles 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 or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, 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, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, 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, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, 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 (C)(1)(a) to (d) 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 registrar ~~of motor vehicles~~ or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-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 Money credited to the fund under this section shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 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 in the state treasury. 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 division (H) of 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 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.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. ~~Monies~~ Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring 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 immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device 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 use of the device.

(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 registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-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.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(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. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined 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 of the section or provision.

(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 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) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee 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 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 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) Regarding a suspension 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 an assessment or 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 the assessment or 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 obtain an assessment or 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, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, 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 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 alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the

treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county

court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed for a violation of a municipal OVI ordinance shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the fine is imposed by a municipal court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the fine is imposed by a county court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(B) Any court cost imposed as a result of a violation of a municipal ordinance that is a moving violation and designated for an indigent drivers alcohol treatment fund established pursuant to division (H) of section

4511.191 of the Revised Code shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the court cost is imposed by a municipal court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the court cost is imposed by a county court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(C)(1) The requirements and sanctions imposed by divisions ~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive from the state's exclusive authority over the registration and titling of motor vehicles and do not comprise a part of the criminal sentence to be imposed upon a person who violates a municipal OVI ordinance.

(2) If a person is convicted of or pleads guilty to a violation of a municipal OVI ordinance, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, and if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of section 4511.19 of the Revised Code or one or more other equivalent offenses, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, shall do whichever of the following is applicable:

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of this section, if, within six years of the current offense, the offender has been convicted of

or pleaded guilty to one violation described in division ~~(B)~~(C)(2) of this section, the court shall order the immobilization for ninety days of that vehicle and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in division ~~(B)~~(C)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of that vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(D) As used in this section, "county-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

Sec. 4513.39. (A) The state highway patrol and sheriffs or their deputies shall exercise, to the exclusion of all other peace officers except within municipal corporations and except as specified in division (B) of this section and division (E) of section 2935.03 of the Revised Code, the power to make arrests for violations on all state highways, of sections 4503.11, 4503.21, 4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01, 4549.08 to 4549.12, and 4549.62 of the Revised Code.

(B) A member of the police force of a township police district created under section 505.48 of the Revised Code or of a joint police district created under section 505.482 of the Revised Code, and a township constable appointed pursuant to section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, shall exercise the power to make arrests for violations of those sections listed in division (A) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, as follows:

(1) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is fifty thousand or less, the member or constable shall exercise that power on those portions of all state highways, except those highways included as part of the interstate system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police

district police force, or within the unincorporated territory of the township, in the case of a township constable;

(2) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is greater than fifty thousand, the member or constable shall exercise that power on those portions of all state highways and highways included as part of the interstate highway system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police district police force, or within the unincorporated territory of the township, in the case of a township constable.

Sec. 4513.60. (A)(1) The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The sheriff or chief of police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief of police. When ordering a motor vehicle into storage pursuant to this division, a sheriff or chief of police, whenever possible, shall arrange for the removal of the motor vehicle by a private tow truck operator or towing company. Subject to division (C) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (E) of this section.

(2) Divisions (A)(1) to (3) of this section do not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with division (B) of this section.

(3) As used in divisions (A)(1) and (2) of this section, "private residential property" means private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(B)(1) The owner of private property may establish a private tow-away zone only if all of the following conditions are satisfied:

(a) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that contains at least all of the following information:

(i) A notice that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed away;

(ii) The telephone number of the person from whom a towed-away vehicle can be recovered, and the address of the place to which the vehicle will be taken and the place from which it may be recovered;

(iii) A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars, and a storage charge, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer.

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed

tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is being removed under authority of division (B)(2) of this section arrives after the motor vehicle or vehicle has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of motor vehicles under division (A)(1) of this section or of vehicles under division (B)(2) of this section, whichever is applicable, that normally is assessed by the person who has prepared the motor vehicle or vehicle for removal, in order to obtain release of the motor vehicle or vehicle. Upon payment of that fee, the motor vehicle or vehicle shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that:

(1) If the motor vehicle was ordered into storage pursuant to division (A)(1) of this section, it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

(2) If the vehicle was being removed under authority of division (B)(2) of this section, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.

(D)(1) If an owner of private property that is established as a private tow-away zone in accordance with division (B)(1) of this section or the authorized agent of such an owner removes or causes the removal of a vehicle from that property under authority of division (B)(2) of this section, the owner or agent promptly shall notify the police department of the municipal corporation, township, or township or joint police district in which the property is located, of the removal, the vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

(2) Each county sheriff and each chief of police of a municipal

corporation, township, or township or joint police district shall maintain a record of motor vehicles that the sheriff or chief orders into storage pursuant to division (A)(1) of this section and of vehicles removed from private property in the sheriff's or chief's jurisdiction that is established as a private tow-away zone of which the sheriff or chief has received notice under division (D)(1) of this section. The record shall include an entry for each such motor vehicle or vehicle that identifies the motor vehicle's or vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular motor vehicle or vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle or vehicle and requests information pertaining to its location.

(3) Any person who registers a complaint that is the basis of a sheriff's or police chief's order for the removal and storage of a motor vehicle under division (A)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(E) The owner of a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is removed under authority of division (B)(2) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars, and storage, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle or vehicle also shall be required for reclamation of the vehicle. If a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 4513.61 and 4513.62 of the Revised Code shall apply.

(F) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under division (B)(1) of this section other than in accordance with division (B)(2)

of this section, and no person shall remove, or cause the removal of, any motor vehicle from any other private property other than in accordance with division (A)(1) of this section or sections 4513.61 to 4513.65 of the Revised Code.

(G) Whoever violates division (B)(3) or (F) of this section is guilty of a minor misdemeanor.

Sec. 4513.61. The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has come into the possession of the sheriff, chief of police, or state highway patrol trooper as a result of the performance of the sheriff's, chief's, or trooper's duties or that has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff or chief of police of the reasons for leaving the motor vehicle in such place, except that when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately. The sheriff or chief of police shall designate the place of storage of any motor vehicle so ordered removed.

The sheriff or chief of police immediately shall cause a search to be made of the records of the bureau of motor vehicles to ascertain the owner and any lienholder of a motor vehicle ordered into storage by the sheriff or chief of police, or by a state highway patrol trooper, and, if known, shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail with return receipt requested, that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle. If the owner or lienholder of the motor vehicle reclaims it after a search of the records of the bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the owner of the place of storage or the owner's employee, and the notice was sent to the motor vehicle owner by the owner of the place of storage or the owner's employee, the owner or lienholder shall pay to the place of storage a

processing fee of twenty-five dollars, in addition to any expenses or charges incurred in the removal and storage of the vehicle.

If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction as provided in section 4513.62 of the Revised Code, the sheriff or chief of police, without charge to any party, shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief of police. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in section 4513.62 of the Revised Code, the sheriff or chief of police shall execute in triplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The sheriff or chief of police shall retain the original of the affidavit for the sheriff's or chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the clerk of courts, within thirty days of the presentation, shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts.

Sec. 4513.62. Unclaimed motor vehicles ordered into storage pursuant to division (A)(1) of section 4513.60 or section 4513.61 of the Revised Code shall be disposed of at the order of the sheriff of the county or the chief of police of the municipal corporation, township, or township or joint police district to a motor vehicle salvage dealer or scrap metal processing facility as defined in section 4737.05 of the Revised Code, or to any other facility owned by or under contract with the county, municipal corporation, or township, for the disposal of such motor vehicles, or shall be sold by the sheriff, chief of police, or licensed auctioneer at public auction, after giving notice thereof by advertisement, published once a week for two successive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. Any moneys accruing from the

disposition of an unclaimed motor vehicle that are in excess of the expenses resulting from the removal and storage of the vehicle shall be credited to the general fund of the county, ~~the~~ municipal corporation, ~~or the~~ township, or joint police district, as the case may be.

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(A) Left on private property for forty-eight hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;

(B) Three years old, or older;

(C) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(D) Apparently inoperable;

(E) Having a fair market value of one thousand five hundred dollars or less.

The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action, shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value of one thousand five hundred dollars or less. The sheriff or chief of police shall thereupon immediately dispose of the abandoned junk motor vehicle to a motor vehicle salvage dealer as defined in section 4738.01 of the Revised Code or a scrap metal processing facility as defined in section 4737.05 of the Revised Code which is under contract to the county, township, or municipal corporation, or to any other facility owned by or under contract with the county, township, or municipal corporation for the destruction of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the law enforcement agency ordering the disposition of such vehicle for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with, and, within thirty days of disposing of the vehicle, shall sign and file the affidavit with the clerk of courts of the county in which the motor vehicle was

abandoned. The clerk of courts shall retain the original of the affidavit for the clerk's files, shall furnish one copy thereof to the registrar, one copy to the motor vehicle salvage dealer or other facility handling the disposal of the vehicle, and one copy to the law enforcement agency ordering the disposal, who shall file such copy with the records and photograph relating to the disposal. Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the general fund of the county, township, or the municipal corporation, as the case may be.

Notwithstanding section 4513.61 of the Revised Code, any motor vehicle meeting the requirements of divisions (C), (D), and (E) of this section which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in section 4513.61 of the Revised Code may be disposed of as provided in this section.

Sec. 4513.64. (A) No person shall willfully leave an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff of the county or chief of police of the municipal corporation, township, or township or joint police district of the reasons for leaving the motor vehicle in such place.

For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

Nothing contained in sections 4513.60, 4513.61, and 4513.63 of the Revised Code shall invalidate the provisions of municipal ordinances or township resolutions regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property, or private property within municipal corporations or townships.

(B) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the county, township, joint police district, or municipal corporation in disposing of the abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the county, ~~to the township~~, joint police district, or ~~to the municipal corporation~~ from this disposal of the vehicle.

Sec. 4513.66. (A) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been

damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, the sheriff of the county, or the chief of police of the municipal corporation, township, or township or joint police district, in which the accident occurred, a state highway patrol trooper, or the chief of the fire department having jurisdiction where the accident occurred may, without consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident, remove the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.

(B)(1) Except as provided in division (B)(2) or (3) of this section, no employee of the department of transportation, sheriff, deputy sheriff, chief of police or police officer of a municipal corporation, township, or township or joint police district, state highway patrol trooper, chief of a fire department, or fire fighter who authorizes or participates in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section is liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Except as provided in division (B)(2) or (3) of this section, if the department of transportation or a sheriff, chief of police of a municipal corporation, township, or township or joint police district, head of the state highway patrol, or chief of a fire department authorizes, employs, or arranges to have a private tow truck operator or towing company remove any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section, that private tow truck operator or towing company is not liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property, and the department of transportation, sheriff, chief of police, head of the state highway patrol, or fire department chief is not liable in civil damages for any injury, death, or loss to person or property that results from the private tow truck operator or towing company's removal of that unoccupied motor vehicle, cargo, or personal property.

(2) Division (B)(1) of this section does not apply to any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to division (A) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway.

(3) Division (B)(1) of this section does not apply to a private tow truck operator or towing company that was not authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department or to a private tow truck operator or towing company that was authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property and the private tow truck operator or towing company performed the removal in a reckless or willful manner.

(C) As used in this section, "hazardous material" has the same meaning as in section 2305.232 of the Revised Code.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code or manufactured and mobile homes.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of

selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer or ~~manufactured home broker~~ to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or

distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles, but does not mean a construction equipment auctioneer or a construction equipment auction licensee.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

(a) Fifteen feet in length, exclusive of bumper and tongue;

(b) Sixty inches in height from the point of contact with the ground;

(c) Eight feet in width;

(d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the

legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in section 1301.201 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer

under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, a roof elevation, or a body extension on a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal

motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

(II) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(JJ) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

(KK) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(LL) "Construction equipment auctioneer" means a person who holds both a valid ~~auctioneer's~~ auction firm license issued under Chapter 4707. of the Revised Code and a valid construction equipment auction license issued under this chapter.

(MM) "Large construction or transportation equipment" means vehicles having a gross vehicle weight rating of more than ten thousand pounds and includes road rollers, traction engines, power shovels, power cranes, commercial cars and trucks, or farm trucks, and other similar vehicles obtained primarily from the construction, mining, transportation or farming industries.

Sec. 4517.02. (A) Except as otherwise provided in this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail new motor vehicles or assume to engage in that business, unless the person is licensed as a new motor vehicle dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed new motor vehicle dealer;

(2) Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer, or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless the person is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code;

(4) Engage in the business of motor vehicle auctioning or assume to engage in that business, unless the person is licensed as a motor vehicle auction owner under sections 4517.01 to 4517.45 of the Revised Code and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the motor vehicle auctions or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(5) Engage in the business of distributing motor vehicles or assume to engage in that business, unless the person is licensed as a distributor under sections 4517.01 to 4517.45 of the Revised Code;

(6) Make more than five casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under sections 4517.01 to 4517.45 of the Revised Code, provided that nothing in this section shall be construed to prohibit the disposition without a license of a motor vehicle originally acquired and held for purposes other than sale, rental, or lease to an employee, retiree, officer, or director of the person making the disposition, to a corporation affiliated with the person making the disposition, or to a person licensed under sections 4517.01 to 4517.45 of the Revised Code;

(7) Engage in the business of auctioning both large construction or transportation equipment and also motor vehicles incident thereto, unless the person is a construction equipment auctioneer or the person is licensed as a motor vehicle auction owner and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the auction.

(B) Nothing in this section shall be construed to require an auctioneer licensed under sections 4707.01 to 4707.19 of the Revised Code, to obtain a

motor vehicle salesperson's license under sections 4517.01 to 4517.45 of the Revised Code when conducting an auction sale for a licensed motor vehicle dealer on the dealer's premises, or when conducting an auction sale for a licensed motor vehicle auction owner; nor shall such an auctioneer be required to obtain a motor vehicle auction owner's license under sections 4517.01 to 4517.45 of the Revised Code when engaged in auctioning for a licensed motor vehicle auction owner.

The establishment of a construction equipment auction license by Am. Sub. H.B. 114 of the 129th general assembly shall not in any way modify, limit, or restrict in any manner the conduct of auctions by persons licensed under Chapter 4707. of the Revised Code who are acting in compliance with that chapter.

(C) Sections 4517.01 to 4517.45 of the Revised Code do not apply to any of the following:

(1) Persons engaging in the business of selling commercial tractors, trailers, or semitrailers incidentally to engaging primarily in business other than the selling or leasing of motor vehicles;

(2) Mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of a mortgage contract;

(3) The leasing, rental, and interchange of motor vehicles used directly in the rendition of a public utility service by regulated motor carriers.

(D) When a partnership licensed under sections 4517.01 to 4517.45 of the Revised Code is dissolved by death, the surviving partners may operate under the license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

(E) No remanufacturer shall engage in the business of selling at retail any new motor vehicle without having written authority from the manufacturer or distributor of the vehicle to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, unless, at the time of the sale of the vehicle, each customer is furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the remanufacturer's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor

vehicle dealer located within twenty miles of the remanufacturer's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business. Additionally, at the time of sale of any vehicle, each customer of the remanufacturer shall be furnished with a warranty issued by the remanufacturer for a term of at least one year.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor and shall be subject to a mandatory fine of one hundred dollars. If the offender previously has been convicted of or pleaded guilty to a violation of this section, whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

Sec. 4517.04. Each person applying for a new motor vehicle dealer's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of April, and upon a blank to be furnished by the registrar for that purpose, a separate application for license for each county in which the business of selling new motor vehicles is to be conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license~~, distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any

such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license~~, distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be handled.

The statement required by division (E) of this section shall indicate whether the applicant or, if applicable, any of the applicant's owners, partners, officers, or directors, individually, or as owner, partner, officer, or director of a business entity, has been convicted of, pleaded guilty, or pleaded no contest, in a criminal action, or had a judgment rendered against ~~him~~ the person in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

A true copy of the contract, agreement, or understanding the applicant has entered into or is about to enter into with the manufacturer or distributor of the new motor vehicles the applicant will handle shall be filed with the application. If the contract, agreement, or understanding is not in writing, a written statement of all the terms thereof shall be filed. Each such copy or statement shall bear a certificate signed by each party to the contract, agreement, or understanding, to the effect that the copy or statement is true and complete and contains all of the agreements made or about to be made between the parties.

The application also shall be accompanied by a photograph, as prescribed by the registrar, of each place of business operated, or to be operated, by the applicant.

Sec. 4517.09. Each person applying for a salesperson's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of July and upon a blank to be furnished by the registrar for that purpose, an application for license. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name and post-office address of the applicant;

(B) Name and post-office address of the motor vehicle dealer ~~or manufactured home broker~~ for whom the applicant intends to act as salesperson;

(C) A statement of the applicant's previous history, record, and association, that shall be sufficient to establish to the satisfaction of the registrar the applicant's reputation in business;

(D) A statement as to whether the applicant intends to engage in any occupation or business other than that of a motor vehicle salesperson;

(E) A statement as to whether the applicant has ever had any previous application refused, and whether the applicant has previously had a license revoked or suspended;

(F) A statement as to whether the applicant was an employee of or salesperson for a dealer ~~or manufactured home broker~~ whose license was suspended or revoked;

(G) A statement of the motor vehicle dealer ~~or manufactured home broker~~ named therein, designating the applicant as the dealer's ~~or broker's~~ salesperson.

The statement required by division (C) of this section shall indicate whether the applicant individually, or as an owner, partner, officer, or director of a business entity, has been convicted of, or pleaded guilty to, in a criminal action, or had a judgment rendered against the applicant in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

Sec. 4517.10. At the time the registrar of motor vehicles grants the application of any person for a license as motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, distributor, motor vehicle auction owner, or motor vehicle salesperson, the registrar shall issue to the person a license. The registrar shall prescribe different forms for the licenses of motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured home brokers~~, distributors, motor vehicle auction owners, and motor vehicle salespersons, and all licenses shall include the name and post-office address of the person licensed.

The fee for a motor vehicle dealer's license; and a motor vehicle leasing dealer's license; and a manufactured home broker's license shall be fifty dollars, ~~and the~~. In addition to the license fee, the registrar shall collect from each applicant for an initial motor vehicle dealer's license and motor vehicle leasing dealer's license a separate fee in an amount equal to the last assessment required by section 4505.181 of the Revised Code for all motor vehicle dealers and motor vehicle leasing dealers. The registrar shall deposit the separate fee into the state treasury to the credit of the title defect rescission fund created in section 1345.52 of the Revised Code. The fee for a

salesperson's license shall be ten dollars. The fee for a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for a distributor's license shall be one hundred dollars for each distributorship. In all cases, the fee shall accompany the application for license.

The registrar may require each applicant for a license issued under this chapter to pay an additional fee, which shall be used by the registrar to pay the costs of obtaining a record of any arrests and convictions of the applicant from the Ohio bureau of identification and investigation. The amount of the fee shall be equal to that paid by the registrar to obtain such record.

If a motor vehicle dealer, or a motor vehicle leasing dealer, ~~or a manufactured home broker~~, has more than one place of business in the county, the dealer ~~or the broker~~ shall make application, in such form as the registrar prescribes, for a certified copy of the license issued to the dealer ~~or manufactured home broker~~ for each place of business operated. In the event of the loss, mutilation, or destruction of a license issued under sections 4517.01 to 4517.65 of the Revised Code, any licensee may make application to the registrar, in such form as the registrar prescribes, for a duplicate copy thereof. The fee for a certified or duplicate copy of a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, distributor's, or auction owner's license, is two dollars, and the fee for a duplicate copy of a salesperson's license is one dollar. All fees for such copies shall accompany the applications.

Beginning on ~~the effective date of this amendment~~ September 16, 2004, all motor vehicle dealers' licenses, motor vehicle leasing dealers' licenses, ~~manufactured home broker's licenses~~, distributors' licenses, auction owners' licenses, and all salespersons' licenses issued or renewed shall expire biennially on a day within the two-year cycle that is prescribed by the registrar, unless sooner suspended or revoked. Before the first day after the day prescribed by the registrar in the year that the license expires, each licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, distributor, and auction owner and each licensed salesperson, in the year in which the license will expire, shall file an application, in such form as the registrar prescribes, for the renewal of such license. The fee provided in this section for the original renewing a motor vehicle dealer's license and a motor vehicle leasing dealer's license shall be fifty dollars. The fee for renewing a salesperson's license shall be ten dollars. The fee for renewing a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for renewing a distributor's license shall be one hundred dollars for each distributorship. In all cases the license renewal fee shall accompany the renewal application.

Any salesperson's license shall be suspended upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of the motor vehicle dealer ~~or manufactured home broker~~; provided that upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of a licensed motor vehicle dealer ~~or manufactured home broker~~, the licensed salesperson, upon entering the service of any other licensed motor vehicle dealer ~~or manufactured home broker~~, shall make application to the registrar, in such form as the registrar prescribes, to have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. If the information contained in the application is satisfactory to the registrar, the registrar shall have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. The fee for the reinstatement and transfer of license shall be two dollars. No license issued to a motor vehicle dealer, motor vehicle leasing dealer, auction owner, ~~manufactured home broker~~, or salesperson, under sections 4517.01 to 4517.65 of the Revised Code shall be transferable to any other person.

Each motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, distributor, and auction owner shall keep the license or a certified copy thereof and, in the case of a dealer ~~or broker~~, a current list of the dealer's ~~or the broker's~~ licensed salespersons, showing the names, addresses, and serial numbers of their licenses, posted in a conspicuous place in each place of business. Each salesperson shall carry the salesperson's license or a certified copy thereof and shall exhibit such license or copy upon demand to any inspector of the bureau of motor vehicles, state highway patrol trooper, police officer, or person with whom the salesperson seeks to transact business as a motor vehicle salesperson.

The notice of refusal to grant a license shall disclose the reason for refusal.

Sec. 4517.12. (A) The registrar of motor vehicles shall deny the application of any person for a license as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or motor vehicle auction owner and refuse to issue the license if the registrar finds that the applicant:

- (1) Has made any false statement of a material fact in the application;
- (2) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (3) Is of bad business reputation or has habitually defaulted on financial

obligations;

(4) Is engaged or will engage in the business of selling at retail any new motor vehicles without having written authority from the manufacturer or distributor thereof to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, except as provided in division (C) of this section and except that a person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor shall not be denied a license pursuant to division (A)(4) of this section;

(5) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in, or leasing, motor vehicles, or in connection with brokering manufactured homes;

(6) Has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;

(7) Is insolvent;

(8) Is of insufficient responsibility to ensure the prompt payment of any final judgments that might reasonably be entered against the applicant because of the transaction of business as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or motor vehicle auction owner during the period of the license applied for, or has failed to satisfy any such judgment;

(9) Has no established place of business that, where applicable, is used or will be used for the purpose of selling, displaying, offering for sale, dealing in, or leasing motor vehicles at the location for which application is made;

(10) Has, less than twelve months prior to making application, been denied a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, or motor vehicle auction owner's license, or has any such license revoked.

(B) If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers' and salespersons'

licensing board.

(C) Notwithstanding division (A)(4) of this section, the registrar shall not deny the application of any person and refuse to issue a license if the registrar finds that the applicant is engaged or will engage in the business of selling at retail any new motor vehicles and demonstrates all of the following in the form prescribed by the registrar:

(1) That the applicant has posted a bond, surety, or certificate of deposit with the registrar in an amount not less than one hundred thousand dollars for the protection and benefit of the applicant's customers except that a new motor vehicle dealer who is not exclusively engaged in the business of selling remanufactured vehicles shall not be required to post the bond, surety, or certificate of deposit otherwise required by division (C)(1) of this section;

~~(2) That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is licensed to sell and service vehicles of the same line make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the applicant's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor vehicle dealer located within twenty miles of the applicant's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business.~~

~~(3)~~ That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a warranty issued by the remanufacturer for a term of at least one year;

~~(4)~~(3) That the applicant provides and maintains at the applicant's location and place of business a permanent facility with all of the following:

(a) A showroom with space, under roof, for the display of at least one new motor vehicle;

(b) A service and parts facility for remanufactured vehicles;

(c) Full-time service and parts personnel with the proper training and technical expertise to service the remanufactured vehicles sold by the applicant.

Sec. 4517.13. The registrar of motor vehicles shall deny the application of any person for a license as a distributor and refuse to issue the license if the registrar finds that the applicant:

- (A) Has made any false statement of a material fact in the application;
- (B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (C) Is of bad business reputé or has habitually defaulted on financial obligations;
- (D) Is engaged or will engage in the business of distributing any new motor vehicle without having the authority of a contract with the manufacturer of the vehicle;
- (E) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;
- (F) Has entered into or is about to enter into a contract or agreement with a manufacturer of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;
- (G) Is insolvent;
- (H) Is of insufficient responsibility to ensure the prompt payment of any financial judgment that might reasonably be entered against the applicant because of the transaction of business as a distributor during the period of the license applied for, or has failed to satisfy any such judgment;
- (I) Has no established place of business that, where applicable, is used or will be used exclusively for the purpose of distributing new motor vehicles at the location for which application is made;
- (J) Has, less than twelve months prior to making application, been denied a distributor's, motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, or motor vehicle auction owner's license, or had any such license revoked.

If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, employee, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, employee, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers board.

Sec. 4517.14. The registrar of motor vehicles shall deny the application of any person for a license as a salesperson and refuse to issue the license if the registrar finds that the applicant:

- (A) Has made any false statement of a material fact in the application;
- (B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (C) Is of bad business repute or has habitually defaulted on financial obligations;
- (D) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;
- (E) Has not been designated to act as salesperson for a motor vehicle dealer ~~or manufactured home broker~~ licensed to do business in this state under section 4517.10 of the Revised Code, or intends to act as salesperson for more than one licensed motor vehicle dealer ~~or manufactured home broker~~ at the same time, except that a licensed salesperson may act as a salesperson at any licensed dealership owned or operated by the same ~~corporation~~ company, regardless of the county in which the dealership's facility is located;
- (F) Holds a current motor vehicle dealer's ~~or manufactured home broker's~~ license issued under section 4517.10 of the Revised Code, and intends to act as salesperson for another licensed motor vehicle dealer ~~or manufactured home broker~~;
- (G) Has, less than twelve months prior to making application, been denied a salesperson's license or had a salesperson's license revoked.

The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or upon any facts within the registrar's knowledge, and, immediately upon refusing to issue a salesperson's license, the registrar shall enter a final order and shall certify the final order together with his findings to the motor vehicle dealers board.

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or distributor shall notify the registrar of motor vehicles concerning any change in status as a dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or distributor during the period for which the dealer, ~~broker~~, or distributor is licensed, if the change of status concerns any of the following:

- (1) Personnel of owners, partners, officers, or directors;
- (2) Location of office or principal place of business;
- (3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to the licensee's application for license.

The motor vehicle dealers board may adopt a rule exempting from the notification requirement of division (A)(1) of this section any dealer if stock in the dealer or its parent company is publicly traded and if there are public records with state or federal agencies that provide the information required by division (A)(1) of this section.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.24. (A) No two motor vehicle dealers shall engage in business at the same location, unless they agree to be jointly, severally, and personally liable for any liability arising from their engaging in business at the same location. The agreement shall be filed with the motor vehicle dealers board, and shall also be made a part of the articles of incorporation of each such dealer filed with the secretary of state. Whenever the board has reason to believe that a dealer who has entered into such an agreement has revoked the agreement but continues to engage in business at the same location, the board shall revoke the dealer's license.

~~(B) This section does not apply to two or more motor vehicle dealers engaged in the business of selling new or used manufactured or mobile homes in the same manufactured home park.~~

~~(C)~~ Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.44. (A) No manufacturer or distributor of motor vehicles, dealer in motor vehicles, ~~or manufactured home broker~~, nor any owner, proprietor, person in control, or keeper of any garage, stable, shop, or other place of business, shall fail to keep or cause to be kept any record required by law.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4549.17. (A) No law enforcement officer employed by a law enforcement agency of a municipal corporation, township, or joint ~~township~~ police district shall issue any citation, summons, or ticket for a violation of

section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for a violation of section 5577.04 of the Revised Code or a substantially similar municipal ordinance, if all of the following apply:

(1) The citation, summons, or ticket would be issued for a violation described in division (A) of this section that occurs on a freeway that is part of the interstate system;

(2) The municipal corporation, township, or joint ~~township~~ police district that employs the law enforcement officer has less than eight hundred eighty yards of the freeway that is part of the interstate system within its jurisdiction;

(3) The law enforcement officer must travel outside the boundaries of the municipal corporation, township, or joint ~~township~~ police district that employs ~~him~~ the officer in order to enter onto the freeway;

(4) The law enforcement officer travels onto the freeway for the primary purpose of issuing citations, summonses, or tickets for violations of section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for violations of section 5577.04 of the Revised Code or a substantially similar municipal ordinance.

(B) As used in this section, "interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 4582.12. (A)(1) Except as otherwise provided in division (E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

(2)(a) Except as provided in division (C) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under sections 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(2)(b) of this section and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the jurisdiction of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

Every contract let shall be in writing and if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code.

The port authority may reject any and all bids.

(b) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(2)(a) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(B) The board of directors of a port authority by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building, structure, or other improvement under any of the following circumstances:

(1) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive

bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

~~(D) No contract for the construction or repair of any building, structure, or other improvement and no loan agreement for the borrowing of funds for any such improvement undertaken by a port authority, where the port authority is the contracting entity, shall be executed unless laborers and mechanics employed on such improvements are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the improvement. The wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates, provided that the requirements of this section do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to the laborers and mechanics.~~

Sec. 4582.31. (A) A port authority created in accordance with section 4582.22 of the Revised Code may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Maintain a principal office within its jurisdiction, and maintain such branch offices as it may require;

(4) Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose and operate any property in connection with transportation, recreational, governmental operations, or cultural activities;

(5) Straighten, deepen, and improve any channel, river, stream, or other water course or way which may be necessary or proper in the development

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of the facilities of a port authority;

(6) Make available the use or services of any port authority facility to one or more persons, one or more governmental agencies, or any combination thereof;

(7) Issue bonds or notes for the acquisition, construction, furnishing, or equipping of any port authority facility or other permanent improvement that a port authority is authorized to acquire, construct, furnish, or equip, in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may only be issued pursuant to a vote of the electors residing within the area of jurisdiction of the port authority. The net indebtedness incurred by a port authority shall never exceed two per cent of the total value of all property within the territory comprising the port authority as listed and assessed for taxation.

(8) Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 4582.48 of the Revised Code, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof;

(9) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property therefor in accordance with the "Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 81u;

(10) Enjoy and possess the same rights, privileges, and powers granted municipal corporations under sections 721.04 to 721.11 of the Revised Code;

(11) Maintain such funds as it considers necessary;

(12) Direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

(13) Promote, advertise, and publicize the port authority and its facilities; provide information to shippers and other commercial interests; and appear before rate-making authorities to represent and promote the interests of the port authority;

(14) Adopt rules, not in conflict with general law, it finds necessary or incidental to the performance of its duties and the execution of its powers under sections 4582.21 to 4582.54 of the Revised Code. Any such rule shall

be posted at no less than five public places in the port authority, as determined by the board of directors, for a period of not fewer than fifteen days, and shall be available for public inspection at the principal office of the port authority during regular business hours. No person shall violate any lawful rule adopted and posted as provided in this division.

(15) Do any of the following, in regard to any interests in any real or personal property, or any combination thereof, including, without limitation, machinery, equipment, plants, factories, offices, and other structures and facilities related to, useful for, or in furtherance of any authorized purpose, for such consideration and in such manner, consistent with Article VIII of the Ohio Constitution, as the board in its sole discretion may determine:

(a) Loan moneys to any person or governmental entity for the acquisition, construction, furnishing, and equipping of the property;

(b) Acquire, construct, maintain, repair, furnish, and equip the property;

(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity;

(d) Guarantee the obligations of any person or governmental entity.

A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

(16) Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board of directors shall specify the consideration and any terms for the sale, lease, or conveyance of other interests in real and personal property. Any determination made by the board under this division shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in sections 4582.201 to 4582.59 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, cable operator, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, cable

operator, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facilities, or upon the election of the agency or political subdivision, public utility, cable operator, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

(a) If any restoration or duplication proposed to be made under this section involves a relocation of the property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and shall not impair the ability of the public utility, cable operator, or common carrier to compete in its original area of operation;

(b) If any restoration or duplication made under this section involves a relocation of the property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in division (A)(15) of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility, cable operator, or common carrier.

As used in division (A)(17) of this section, "cable operator" has the same meaning as in the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as amended by the "Telecommunications Act of 1996," Pub. L. No. 104-104, 110 Stat. 56.

(18)(a) 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 under sections 4582.21 to 4582.59 of the Revised Code.

(b)(i) Except as provided in division (A)(18)(c) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under section 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(18)(b)(ii) of this section, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract shall be accompanied by or shall

refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code. The port authority may reject any and all bids.

(ii) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(18)(b)(i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(c) The board of directors by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(i) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(ii) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(v) A single bid is received by the port authority after complying with the provisions of division (A)(18)(b) of this section.

(d)(i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(ii) of this section, the port authority shall publish a notice calling for technical proposals ~~at least~~

twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

(e)(i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to such terms and conditions as may be determined by the board of directors in its discretion.

(ii) Division (A)(18)(e)(i) of this section applies to all contracts that are subject to the division, notwithstanding any other provision of law that might otherwise apply, including, without limitation, any requirement of notice, any requirement of competitive bidding or selection, or any requirement for the provision of security.

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not apply to either of the following: any contract secured by or to be paid from moneys raised by taxation or the proceeds of obligations secured by a pledge of moneys raised by taxation; or any contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this section, any revenues derived by the port authority under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the port authority issued to finance costs of such improvement, are excluded from general revenues.

(19) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any

available funds of the port authority or from funds appropriated for that purpose by a political subdivision creating or participating in the creation of the port authority.

(20) Receive and accept from any state or federal agency grants and loans for or in aid of the construction of any port authority facility or for research and development with respect to port authority facilities, 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;

(21) Engage in research and development with respect to port authority facilities;

(22) Purchase fire and extended coverage and liability insurance for any port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under any resolution authorizing its port authority revenue bonds or in any trust agreement securing the same;

(23) Charge, alter, and collect rentals and other charges for the use or services of any port authority facility as provided in section 4582.43 of the Revised Code;

(24) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(25) Do all acts necessary or proper to carry out the powers expressly granted in sections 4582.21 to 4582.59 of the Revised Code.

(B) 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.

(C) Whoever violates division (A)(14) of this section is guilty of a minor misdemeanor.

Sec. 4585.10. The officer holding a writ for the sale of a watercraft, its apparel, or furniture, before ~~he proceeds~~ proceeding to sell it, shall give public notice of the time and place of sale for at least ten days previous thereto or as provided in section 7.16 of the Revised Code, by advertisement in a newspaper ~~published~~ published of general circulation in the county, and by advertisement posted in at least five public places in the county. Such sales shall be conducted, and the court shall have the same power over them as sales upon execution.

Sec. 4705.021. (A) As used in this section:

(1) "Disciplinary counsel" means the disciplinary counsel appointed by

the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(2) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state that complies with the criteria set forth in rule V, section 3 of the Rules for the Government of the Bar of Ohio.

(3) "Child support order" has the same meaning as in section 3119.01 of the Revised Code.

(B) If an individual who has been admitted to the bar by order of the supreme court in compliance with its published rules is determined pursuant to sections 3123.01 to 3123.07 of the Revised Code by a court or child support enforcement agency to be in default under a support order being administered or handled by a child support enforcement agency, that agency may send a notice listing the name and social security number or other identification number of the individual and a certified copy of the court or agency determination that the individual is in default to the secretary of the board of commissioners on grievances and discipline of the supreme court and to either the disciplinary counsel or the president, secretary, and chairperson of each certified grievance committee if both of the following are the case:

(1) At least ninety days have elapsed since the final and enforceable determination of default;

(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the total monthly obligation due through means other than those described in sections 3123.81 to 3123.85 of the Revised Code.

Sec. 4709.13. (A) The barber board may refuse to issue or renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for any one or more of the following causes:

~~(1) Conviction of a felony shown by a certified copy of the record of the court of conviction;~~

~~(2)~~ Advertising by means of knowingly false or deceptive statements;

~~(3)~~(2) Habitual drunkenness or possession of or addiction to the use of any controlled drug prohibited by state or federal law;

~~(4)~~(3) Immoral or unprofessional conduct;

~~(5)~~(4) Continuing to be employed in a barber shop wherein rules of the board or department of health are violated;

~~(6)~~(5) Employing any person who does not have a current Ohio license to perform the practice of barbering;

~~(7)~~(6) Owning, managing, operating, or controlling any barber school or portion thereof, wherein the practice of barbering is carried on, whether in

the same building or not, without displaying a sign at all entrances to the places where the barbering is carried on, indicating that the work therein is done by students exclusively;

~~(8)~~(7) Owning, managing, operating, or controlling any barber shop, unless it displays a recognizable sign or barber pole indicating that it is a barber shop, and the sign or pole is clearly visible at the main entrance to the shop;

~~(9)~~(8) Violating any sanitary rules approved by the department of health or the board;

~~(10)~~(9) Employing another person to perform or ~~himself~~ personally perform the practice of barbering in a licensed barber shop unless that person is licensed as a barber under this chapter;

~~(11)~~(10) Gross incompetence.

(B)(1) The board may refuse to renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for conviction of or plea of guilty to a felony committed after the person has been issued a license under this chapter, shown by a certified copy of the record of the court in which the person was convicted or pleaded guilty.

(2) A conviction or plea of guilty to a felony committed prior to being issued a license under this chapter shall not disqualify a person from being issued an initial license under this chapter.

(C) Prior to taking any action under division (A) or (B) of this section, the board shall provide the person with a statement of the charges against him the person and notice of the time and place of a hearing on the charges. The board shall conduct the hearing according to Chapter 119. of the Revised Code. Any person dissatisfied with a decision of the board may appeal the board's decision to the court of common pleas in Franklin county.

~~(C)~~(D) The board may adopt rules in accordance with Chapter 119. of the Revised Code, specifying additional grounds upon which the board may take action under division (A) of this section.

Sec. 4725.34. (A) The state board of optometry shall charge the following nonrefundable fees:

(1) One hundred ~~ten~~ thirty dollars for application for a certificate of licensure;

(2) ~~Twenty-five~~ Forty-five dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;

(3) One hundred ~~ten~~ thirty dollars for renewal of a certificate of licensure;

(4) ~~Twenty-five~~ Forty-five dollars for renewal of a topical ocular pharmaceutical agents certificate;

(5) ~~Twenty-five~~ Forty-five dollars for renewal of a therapeutic pharmaceutical agents certificate;

(6) ~~Seventy-five~~ One hundred twenty-five dollars for late completion or submission, or both, of continuing optometric education;

(7) ~~Seventy-five~~ One hundred twenty-five dollars for late renewal of one or more certificates that have expired;

(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;

(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;

(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;

(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the board and providing rosters of currently licensed optometrists. Such fees shall be established at a regular meeting of the board and shall comply with any applicable guidelines or policies set by the department of administrative services or the office of budget and management.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in division (A) of this section if the fees do not exceed the amounts specified by more than fifty per cent.

(C) All receipts of the board, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by an examination fee the board shall establish by rule. Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file a properly

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completed written application for a license with the board with ~~the appropriate license~~ a licensure application fee ~~as set forth under section 4725.50 of the Revised Code~~ of fifty dollars.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully completed either of the following:

(1) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;

(2) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(C) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed written application with the board accompanied by the appropriate fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, or experience standards recognized by the board as national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of this division and rules adopted pursuant to this division.

Sec. 4725.50. (A) Except for a person who qualifies for licensure as an ocularist, each person who qualifies for licensure under sections 4725.40 to 4725.59 of the Revised Code shall receive from the Ohio optical dispensers board, under its seal, a certificate of licensure entitling ~~him~~ the person to practice as a licensed spectacle dispensing optician, licensed contact lens dispensing optician, or a licensed spectacle-contact lens dispensing optician. The appropriate certificate of licensure shall be issued by the board no later than sixty days after it has notified the applicant of ~~his~~ the applicant's approval for licensure.

(B) ~~The licensure fee shall be fifty dollars for applications submitted in~~

~~January through March; thirty-seven dollars and fifty cents, in April through June; twenty-five dollars, in July through September; and twelve dollars and fifty cents, in October through December.~~

(C) Each licensed dispensing optician shall display ~~his~~ the licensed dispensing optician's certificate of licensure in a conspicuous place in ~~his~~ the licensed dispensing optician's office or place of business. If a licensed dispensing optician maintains more than one office or place of business, ~~he~~ the licensed dispensing optician shall display a duplicate copy of such certificate at each location. The board shall issue duplicate copies of the appropriate certificate of licensure for this purpose upon the filing of an application form therefor and the payment of a five-dollar fee for each duplicate copy.

Sec. 4725.52. Any licensed dispensing optician may supervise a maximum of three apprentices who shall be permitted to engage in optical dispensing only under the supervision of the licensed dispensing optician.

~~A person serving~~ To serve as an apprentice, a person shall register ~~annually~~ with the Ohio optical dispensers board either on a form provided by the board or in the form of a statement giving the name and address of the supervising licensed dispensing optician, the location at which the apprentice will be employed, and any other information required by the board. ~~Each registrant~~ For the duration of the apprenticeship, the apprentice shall register annually on the form provided by the board or in the form of a statement.

Each apprentice shall pay a an initial registration fee of ten twenty dollars. For each registration renewal thereafter, each apprentice shall pay a registration renewal fee of twenty dollars.

A person who is gaining experience under the supervision of a licensed optometrist or ophthalmologist that would qualify ~~him~~ the person under division (B)(1) of section 4725.48 of the Revised Code to take the examination for optical dispensing is not required to register with the board.

Sec. 4725.57. An applicant for licensure as a licensed dispensing optician who is licensed or registered in another state shall be accorded the full privileges of practice within this state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the submission of a certified copy of the license or certificate issued by such other state, without the necessity of examination, if the board determines that the applicant meets the ~~criteria of division (A) of section 4725.48 of the Revised Code and further determines that the educational background or experience of the applicant satisfies the remaining~~ requirements of division (B) of section 4725.48 of the Revised Code. The board may require that the applicant have received a passing

score, as determined by the board, on an examination that is substantially the same as the examination described in division (A) of section 4725.48 of the Revised Code.

Sec. 4729.50. (A) The state board of pharmacy may enter into contracts with private entities under which the entities process applications and renewal applications for wholesale distributors of dangerous drugs and terminal distributors of dangerous drugs. When entering into these contracts, the board shall give preference to entities that are Ohio-based companies.

Any revenue received by the board from contracts entered into under this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. The money may be used for any purpose determined by the board to be relevant to its duties, including the establishment and maintenance of a drug database pursuant to section 4729.75 of the Revised Code.

(B) No enforcement or disciplinary authority granted to the board shall be transferred to a private entity through a contract entered into under this section.

Sec. 4729.52. (A) A person desiring to be registered as a wholesale distributor of dangerous drugs shall file with the executive director of the state board of pharmacy a verified application containing such information as the board requires of the applicant relative to the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section. The board shall register as a wholesale distributor of dangerous drugs each applicant who has paid the required registration fee, if the board determines that the applicant meets the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section.

(B) The board may register and issue to a person who does not reside in this state a registration certificate as a wholesale distributor of dangerous drugs if the person possesses a current and valid wholesale distributor of dangerous drugs registration certificate or license issued by another state that has qualifications for licensure or registration comparable to the registration requirements in this state and pays the required registration fee.

(C) All registration certificates issued pursuant to this section are effective for a period of twelve months from the first day of July of each year. A registration certificate shall be renewed annually by the board for a like period, pursuant to this section and the standard renewal procedure of Chapter 4745. of the Revised Code. A person desiring to renew a registration certificate shall submit an application for renewal and pay the

required renewal fee before the first day of July each year.

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is ~~one~~ seven hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is ~~one~~ seven hundred fifty dollars and shall accompany each renewal application.

A registration certificate that has not been renewed in any year by the first day of August may be reinstated upon payment of the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty dollars.

(2) Renewal fees and penalties assessed under division (E)(1) of this section shall not be returned if the applicant fails to qualify for renewal.

(F) The registration of any person as a wholesale distributor of dangerous drugs subjects the person and the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for registration as a wholesale distributor of dangerous drugs by, or on behalf of, any person or the registration of any person as a wholesale distributor of dangerous drugs shall not, of itself, constitute evidence that the person is doing business within this state.

Sec. 4729.552. (A) To be eligible to receive a license as a category III terminal distributor of dangerous drugs with a pain management clinic classification, an applicant shall submit evidence satisfactory to the board that the applicant's pain management clinic will be operated in accordance with the requirements specified in division (B) of this section and that the applicant meets any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

If the board determines that an applicant meets all of the requirements, the board shall issue to the applicant a license as a category III terminal distributor of dangerous drugs and specify on the license that the terminal distributor is classified as a pain management clinic.

(B) The holder of a terminal distributor license with a pain management clinic classification shall do all of the following:

(1) Be in control of a facility that is owned and operated solely by one

or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Ensure that any person employed by the facility complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(3) Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code;

(4) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, ~~any felony in this state, another state, or the United States;~~ either of the following:

(a) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States;

(b) A felony drug abuse offense, as defined in section 2925.01 of the Revised Code.

(5) Maintain a list of each person with ownership of the facility and notify the state board of pharmacy of any change to that list.

(C) No person shall operate a facility that under this chapter is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification without obtaining and maintaining the license with the classification.

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (A) of this section and any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

(D) The board may impose a fine of not more than five thousand dollars on a terminal distributor of dangerous drugs license holder who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4731.054. (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01

of the Revised Code.

(3) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

(4) "Owner" means each person included on the list maintained under division (B)(5) of section 4729.552 of the Revised Code.

~~(4)~~(5)(a) "Pain management clinic" means a facility to which all of the following apply:

(i) The primary component of practice is treatment of pain or chronic pain;

(ii) The majority of patients of the prescribers at the facility are provided treatment for pain or chronic pain that includes the use of controlled substances, tramadol, carisoprodol, or other drugs specified in rules adopted under this section;

(iii) The facility meets any other identifying criteria established in rules adopted under this section.

(b) "Pain management clinic" does not include any of the following:

(i) ~~A hospital registered with the department of health under section 3701.07 of the Revised Code or a facility owned in whole or in part by a hospital;~~

(ii) A facility operated by a hospital for the treatment of pain or chronic pain;

(iii) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(iv) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction;

~~(iii)~~(v) A hospice program licensed under Chapter 3712. of the Revised Code;

~~(iv)~~(vi) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code;

(vii) An interdisciplinary pain rehabilitation program with three-year accreditation from the commission on accreditation of rehabilitation facilities.

~~(5)~~(6) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

~~(6)~~(7) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of pain or chronic pain at the clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A)(4)(5)(a)(ii) of this section, the other drugs used to treat pain or chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A)(4)(5)(a)(iii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.

Sec. 4731.15. (A)(1) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(2) As used in this chapter, "cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(B) A certificate to practice a limited branch of medicine issued by the state medical board is valid for a two-year period, except when an initial certificate is issued for a shorter period or when division (C)(2) of this section is applicable. The certificate may be renewed in accordance with

division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section, all of the following apply with respect to the renewal of certificates to practice a limited branch of medicine:

(a) Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial registration with the state medical board on a renewal application form prescribed by the board. An applicant for renewal shall pay a biennial registration fee of fifty one hundred dollars.

(b) At least six months before a certificate expires, the board shall mail or cause to be mailed a renewal notice to the certificate holder's last known address.

(c) At least three months before a certificate expires, the certificate holder shall submit the renewal application and biennial registration fee to the board.

(2) Beginning with the 2009 registration period, the board shall implement a staggered renewal system that is substantially similar to the staggered renewal system the board uses under division (B) of section 4731.281 of the Revised Code.

(D) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board written notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A certificate to practice a limited branch of medicine shall be automatically suspended if the certificate holder fails to renew the certificate in accordance with division (C) of this section. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a certificate to practice has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the certificate upon an applicant's submission of a renewal application and payment of the biennial registration fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars.

If a certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the

Revised Code, the board may restore the certificate upon an applicant's submission of a restoration application, the biennial registration fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code. The penalty for restoration is fifty dollars.

Sec. 4731.16. (A) The state medical board shall ~~conduct examinations of applicants for certification to practice~~ determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy. The examinations shall be conducted under rules adopted by the board and at such times and places as the board may determine. The fee for either examination is two hundred fifty dollars.

~~For the purpose of conducting examinations, the board may call to its aid any person of established reputation and known ability in the limited branch of medicine for which the examination is being held. A person called to assist in an examination shall be reimbursed for the person's services. Reimbursement shall be not more than one hundred dollars per day and an amount fixed and allowed by the board for the person's actual and necessary expenses.~~

~~Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and any other subjects appropriate to the limited branch of medicine for which certification is requested as the board may require, except that applicants for certificates to practice massage therapy shall not be examined in pathology.~~

~~If an applicant fails an examination more than twice, in whole or in part, the board may require that the applicant obtain additional training as a condition of being eligible for further examination.~~

(B) The board may administer an examination of competency to practice a limited branch of medicine. If it administers an examination, the board shall establish by rule a fee to cover the cost of administering the examination.

If it does not administer an examination, the board shall adopt rules under section 4731.05 of the Revised Code that specify both of the following:

(1) An examination acceptable to the board as an examination of competency to practice a limited branch of medicine;

(2) The score that constitutes evidence of passing the examination.

Sec. 4731.17. ~~If an applicant passes the examination to practice massage therapy or cosmetic therapy conducted under section 4731.16 of the Revised Code and has paid the fee required under that section, (A) The state medical board shall review all applications received under section 4731.19 of the Revised Code. The board shall determine whether an applicant meets the requirements for a certificate to practice the applicable limited branch of medicine. An affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate.~~

~~(B) If the board determines that the applicant meets the requirements for a certificate and that the documentation required for a certificate is acceptable, the state medical board shall issue to the applicant the appropriate certificate to practice. Such Each certificate shall be signed by the president and secretary of the board and attested by its seal.~~

~~(C) A certificate shall authorize the holder thereof to practice the limited branch of medicine specified therein, but shall not permit the holder to practice any other for which the certificate was issued. No person who holds a certificate to practice a limited branch of medicine issued by the board under this section shall do any of the following:~~

~~(1) Practice a limited branch of medicine, nor shall it permit the holder to treat other than the limited branch of medicine for which the certificate was issued;~~

~~(2) Treat infectious, contagious, or venereal diseases, to prescribe;~~

~~(3) Prescribe or administer drugs, or to perform;~~

~~(4) Perform surgery or practice medicine in any other form.~~

Sec. 4731.171. In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate to practice massage therapy or cosmetic therapy shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate to practice massage therapy or cosmetic therapy unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code.

Sec. 4731.19. ~~(A) The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy.~~

~~(B) An applicant for A person seeking a certificate to practice a limited branch of medicine shall, as a condition of admission to the examination, have file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by evidence~~

of all of the following:

(1) That the applicant is at least eighteen years of age and of good moral character;

(2) That the applicant has attained high school graduation or its equivalent;

(3) That the applicant holds one of the following:

(1)(a) A diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction;

(2)(b) A current license, registration, or certificate that is in good standing in another state for massage therapy or cosmetic therapy, as applicable;

(3) Certification from a national certification body and a diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section 4731.05 of the Revised Code;

The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for a certificate to practice massage therapy or cosmetic therapy in the same manner that sufficiency of preliminary education is determined under section 4731.09 of the Revised Code, except that the board may adopt rules defining and establishing for the limited branch of medicine preliminary educational requirements that are less exacting than those prescribed by such section, as the nature of the case may require;

(c) For not less than five years preceding application, a current license, registration, or certificate in good standing in another state for massage therapy or cosmetic therapy.

(4) Evidence that the applicant has successfully passed an examination, prescribed in rules described in section 4731.16 of the Revised Code, to determine competency to practice the applicable limited branch of medicine;

(5) An affidavit signed by the applicant attesting to the accuracy and truthfulness of information submitted under this section and consenting to release of information;

(6) Any other information the board requires.

(B) An applicant for a certificate to practice a limited branch of medicine shall comply with the requirements of section 4731.171 of the Revised Code.

(C) At the time of making application for a certificate to practice a limited branch of medicine, the applicant shall pay to the board a fee of one

hundred fifty dollars, no part of which shall be returned. No application shall be considered filed until the board receives the appropriate fee.

(D) The board may investigate the application materials received under this section and contact any agency or organization for recommendations or other information about the applicant.

Sec. 4731.222. Before restoring to good standing a certificate issued under this chapter that has been in a suspended or inactive state for any cause for more than two years, or before issuing a certificate pursuant to section ~~4731.18~~, 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised Code to an applicant who for more than two years has not been engaged in the practice of medicine, osteopathic medicine, podiatric medicine and surgery, or a limited branch of medicine as an active practitioner, as a participant in a program of graduate medical education, as defined in section 4731.091 of the Revised Code, as a student in a college of podiatry determined by the board to be in good standing, or as a student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.19 of the Revised Code, the state medical board may require the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice.

The authority of the board to impose terms and conditions includes the following:

(A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(B) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.08 of the Revised Code. The board shall not restore a certificate under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

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, and the medicaid program established under Chapter 5111. 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 medicaid program established under Chapter 5111. 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 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. 4733.15. (A) Registration expires ~~annually~~ on the last day of December ~~following initial registration or renewal of registration 2011, and becomes invalid on that date unless renewed pursuant to this section and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. For renewals after that date, registration expires biennially on the last day of December following initial registration or renewal of registration and becomes invalid on that date unless renewed.~~ Renewal may be effected at ~~any time prior to the date of expiration for a period of one year~~ by the applicant's payment to the treasurer of state of a fee of ~~twenty~~ forty dollars for a renewal of registration as either a professional engineer or professional surveyor and, ~~for renewals for calendar year 2008 and thereafter,~~ demonstration of completion of the continuing professional development requirements of section 4733.151 of the Revised Code. When notified as required in this section, a registrant's failure to renew registration shall not deprive the registrant of the right of renewal within the following twelve months, but the fee to renew a registration within twelve months after expiration shall be increased fifty per cent, and the registrant shall certify completion of continuing professional development hours as required in section 4733.151 of the Revised Code.

The state board of registration for professional engineers and surveyors may, upon request, waive the payment of renewal fees or the completion of continuing professional development requirements for a registrant during the period when the registrant is on active duty in connection with any branch of the armed forces of the United States.

(B) Each certificate of authorization issued pursuant to section 4733.16 of the Revised Code shall authorize the holder to provide professional engineering or professional surveying services, through the registered professional engineer or professional surveyor designated as being in responsible charge of the professional engineering or professional surveying practice, from the date of issuance until the last day of June next succeeding the date upon which the certificate was issued, unless the certificate has been revoked or suspended for cause as provided in section 4733.20 of the Revised Code or has been suspended pursuant to section 3123.47 of the Revised Code.

(C) If a registrant fails to renew registration as provided under division (A) of this section, renewal and reinstatement may be effected under rules the board adopts regarding requirements for reexamination or reapplication, and reinstatement penalty fees. The board may require a registrant who fails to renew registration to complete ~~those~~ the required hours of continuing professional development ~~required from the effective date of this section,~~ as a condition of renewal and reinstatement if the registrant seeks renewal and reinstatement under this division ~~on or after January 1, 2009.~~

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the last day of December 2011, each registrant for renewal ~~for calendar year 2008 and thereafter~~ shall have completed, ~~within the preceding~~ in calendar year 2011, at least fifteen hours of continuing professional development for professional engineers and surveyors. Thereafter, each registrant shall complete at least thirty hours of continuing professional development during the two-year period immediately preceding the biennial renewal expiration date.

(B) The continuing professional development requirement may be satisfied by coursework or activities dealing with technical, ethical, or managerial topics relevant to the practice of engineering or surveying. A registrant may earn continuing professional development hours by completing or teaching university or college level coursework, attending seminars, workshops, or conferences, authoring relevant published papers, articles, or books, receiving patent awards, or actively participating in professional or technical societies serving the engineering or surveying professions.

In the case of the board disputing the content of any credit hours or coursework, then the board shall presume as a matter of law that any credit hours submitted by a registrant, or any coursework or activity submitted for approval, complies with this section if submitted and if a statement signed by a current registrant not otherwise participating in the event, affirms that the material is relevant to the registrant's practice and will assist the registrant's development in the profession.

Credit for university or college level coursework shall be based on the credit established by the university or college. One semester hour as established by the university or college shall be the equivalent of forty-five hours of continuing professional development, and one quarter hour as established by the university or college shall be the equivalent of thirty hours of continuing professional development.

Credit for seminars, workshops, or conferences offering continuing education units shall be based on the units awarded by the organization presenting the seminar, workshop, or conference. A registrant may earn ten continuing professional development hours for each continuing education unit awarded. Each hour of attendance at a seminar, workshop, or conference for which no continuing education units are offered shall be the equivalent of one continuing professional development hour.

A registrant may earn two continuing professional development hours for each year of service as an officer or active committee member of a professional or technical society or association that represents registrants or entities composed of registrants. A registrant may earn ten continuing professional development hours for authoring relevant published papers, articles, or books. A registrant may earn ten continuing professional development hours for each such published paper, article, or book. A registrant may earn ten continuing professional development hours for each patent award.

(C) A person registered as both a professional engineer and professional surveyor shall complete at least ~~five~~ ten of the ~~fifteen~~ thirty hours required under division (A) of this section in engineering-related coursework or activities and at least ~~five~~ ten of those ~~fifteen~~ thirty hours in surveying-related coursework or activities.

(D) A registrant is exempt from the continuing professional development requirements of this section during the first calendar year of registration.

(E) A registrant who completes more than ~~fifteen~~ thirty hours of approved coursework or activities in ~~any calendar year~~ a biennial renewal period may carry forward to the next ~~calendar year~~ biennial renewal period a

maximum of fifteen of the excess hours.

(F) A registrant shall maintain records to demonstrate completion of the continuing professional development requirements specified in this section for a period of ~~three~~ four calendar years beyond the year in which certification of the completion of the requirements is obtained by the registrant. The records shall include all of the following:

(1) A log specifying the type of coursework or activity, its location and duration along with the instructor's name, and the number of continuing professional development hours earned;

(2) Certificates of completion or other evidence verifying attendance.

(G) The records specified in division (F) of this section may be audited at any time by the state board of registration for professional engineers and surveyors. If the board discovers that a registrant has failed to complete coursework or activities, it shall notify the registrant of the deficiencies and allow the registrant six months from the date of the notice to rectify the deficiencies and to provide the board with evidence of satisfactory completion of the continuing professional development requirements. If the registrant fails to provide such evidence within that six-month period, the board may revoke or suspend the registration after offering an adjudication hearing in accordance with Chapter 119. 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)(1) 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)(a) With reference to real estate situated in this state ~~or any interest in~~ 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)(b) 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 bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

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

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

(5)(e) 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)(f) 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)(g)~~ As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) ~~"Physically handicapped~~ Disabled 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.

(AA) "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) 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.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ

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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. 4735.03. There is hereby created the Ohio real estate commission, consisting of five members who shall be appointed by the governor, with the advice and consent of the senate. Four members shall have been engaged in the real estate business as licensed real estate brokers in the state for a period of ten years immediately preceding the appointment. One member shall represent the public. Terms of office shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of appointment until the end of the term for which appointed. No more than three members shall be members of any one political party and no member of the commission concurrently may be a member of the commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code. Each member, before entering upon the duties of office, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies which occur shall be filled in the manner prescribed for the regular appointments to the commission. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No member shall hold office for more than two consecutive full terms. Annually, upon the qualification of the member appointed in such year, the commission shall organize by selecting from its members a president and vice-president, and shall do all things necessary and proper to carry out and enforce this chapter. A majority of the members of the commission shall constitute a quorum, but a lesser number may adjourn from time to time. Each member of the commission shall receive an amount fixed pursuant to section 124.14 of the Revised Code for each day employed in the discharge of official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

The commission or the superintendent of real estate may investigate complaints concerning the violation of section 4735.02 or 4735.25 of the Revised Code and may subpoena witnesses in connection with such

investigations as provided in section 4735.04 of the Revised Code. The commission or the superintendent may make application to the appropriate court for an order enjoining the violation of section 4735.02 or 4735.25 of the Revised Code, and upon a showing by the commission or the superintendent that any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation has violated or is about to violate section 4735.02 or 4735.25 of the Revised Code, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court.

The commission shall:

- (A) Adopt canons of ethics for the real estate industry;
- (B) Upon appeal by any party affected, or may upon its own motion, review any order or application determination of the superintendent, and may reverse, vacate, or modify any order of the superintendent;
- (C) Administer the real estate education and research fund and hear appeals from orders of the superintendent regarding claims against that fund or against the real estate recovery fund;
- (D) Direct the superintendent on the content, scheduling, instruction, and offerings of real estate courses for salesperson and broker educational requirements;
- (E) Disseminate to licensees and the public, information relative to commission activities and decisions;
- (F) Notify licensees of changes in state and federal civil rights laws pertaining to discrimination in the purchase or sale of real estate and relevant case law, and inform licensees that they are subject to disciplinary action if they do not comply with the changes;
- (G) Publish and furnish to public libraries and to brokers booklets on housing and remedies available to dissatisfied clients under this chapter and Chapter 4112. of the Revised Code;
- (H) Provide training to commission members and employees of the division of real estate and professional licensing on issues relative to the real estate industry, which may include but not be limited to investigative techniques, real estate law, and real estate practices and procedures.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to

section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

- (1) Administer this chapter;
- (2) Issue all orders necessary to implement this chapter;
- (3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;
- (4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker;

(4) In conjunction with the enforcement of this chapter, when the superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the superintendent of

real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

Sec. 4735.052. (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a valid license on voluntary hold or a suspended or inactive license under this chapter any time during the twelve months preceding on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within ~~seven~~ fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held ~~at the next regularly scheduled meeting of the Ohio real estate commission, and a statement giving the date and place of that meeting;~~

~~(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.~~

(C) ~~The commission~~ (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to ~~division (B)(4) of this section,~~ and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code. ~~If~~

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one

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thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a ~~transcript~~ record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate ~~recovery~~ operating fund, which is created in the state treasury under section ~~4735.12~~ 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of one hundred dollars shall accompany the application for a real estate broker's license, ~~which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson.~~ The application fee shall be ~~retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one half shall be returned to the applicant nonrefundable.~~ A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) One dollar of each application fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding ~~eight hundred two thousand~~ two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the

general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) 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 or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;

(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;

(viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Forty hours of classroom instruction in real estate practice;

(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 3, 1984.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and

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cause them to be published in printed form.

(D) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6) of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G)(1) ~~No~~ Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction in real estate brokerage at an institution of higher education or any other institution that shall be completed in schools, seminars, and educational institutions that is are approved by the commission. That instruction shall include, but not be limited to, current issues in managing a real estate company or office. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division (G)(1) 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:

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

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying 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, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. ~~The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one half shall be returned to the applicant nonrefundable.~~ A fee of sixty dollars shall be charged by the superintendent for each successive application made by the

applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) 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 or, if the applicant has been so adjudged, at least two years have passed since the court decision and the

superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

~~(6)(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:~~

~~(i) Thirty hours of classroom instruction in real estate practice;~~

~~(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.~~

~~(iii) Thirty hours of classroom instruction in real estate appraisal;~~

~~(iv) Thirty hours of classroom instruction in real estate finance.~~

~~(b) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.~~

~~(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has Has successfully completed at an institution of higher education all of the following:~~

~~(a) Forty hours of classroom instruction in real estate practice;~~

~~(b) Forty hours of classroom instruction that includes the subjects of~~

Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) No Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the precicensure classroom instruction required by division (F)(6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(H) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion, at an institution of higher education or any other institution of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions approved by the commission, of ten hours of classroom instruction in real estate courses that cover current issues regarding consumers, real estate practice, ethics, and real estate law. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the

superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division ~~(G)~~(H) of this section within twelve months of the date the license is suspended.

~~(H)~~(I) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. ~~12101~~ 12189. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

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~~ licensure;
- (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;

(f) Clarification of the activities that require a license under this chapter.

(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~~ A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ten hour postlicensure courses as required by division (H) of section 4735.07 and division (H) of section

4735.09 of the Revised Code, courses of study required for licenses, ~~or~~ courses offered in preparation for license examinations, or courses 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~~ in an inactive status 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) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. 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~~ shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony or.

(2) The licensee is convicted of a crime involving moral turpitude or of violating.

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing, or any court that issues a finding of an unlawful.

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code or that convicts a.

(5) The licensee of a violation of is found to have violated any municipal civil rights law pertaining to housing discrimination, shall notify the superintendent of the conviction or finding within fifteen days. If.

(6) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(7) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may ~~revoke~~ suspend 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, on a form prescribed by the superintendent, within thirty days after the change of location, 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. One dollar 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. One dollar of the fee shall be credited to the real estate education and research fund.

~~No~~ A licensed 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 only act~~ as a real estate broker ~~other than as the agent of the for such~~ 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

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twelve months of the licensee's first birthday after discharge. The ~~commission~~ superintendent 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) 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 two months prior to the filing deadline 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 that is on file with the division.~~ If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) 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 fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

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~~ disabled 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

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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, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. 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 A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) 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 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, and the superintendent then reactivates the broker's license as a

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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.~~

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

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~~ comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a ~~physically handicapped~~ disabled 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 as deemed appropriate by the superintendent 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~~ disabled 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~~ disabled 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.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

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)~~(H) 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. 4735.15. (A) The nonrefundable fees for reactivation or transfer of a license shall be as follows:

(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(2) Reactivation or transfer of a license by a real estate salesperson, twenty-five dollars.

(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as

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follows per year for each year of a licensing period:

(1) Branch office license, fifteen dollars;

(2) Renewal of a real estate broker's license, sixty dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's renewal fee shall be required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate salespersons associated with the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.

(3) Renewal of a real estate salesperson's license, forty-five dollars;

(4) Renewal of a real estate broker's or salesperson's license filed within twelve months after the licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee;

(5) Foreign real estate dealer's license and each renewal of the license, thirty dollars per salesperson employed by the dealer, but not less than one hundred fifty dollars;

(6) Foreign real estate salesperson's license and each renewal of the license, fifty dollars.

(C) All fees collected under this section shall be paid to the treasurer of state. One dollar of each such fee shall be credited to the real estate education and research fund, except that for fees that are assessed only once every three years, three dollars of each triennial fee shall be credited to the real estate education and research fund.

(D) In all cases, the fee and any penalty shall accompany the application for the license, license transfer, or license reactivation or shall accompany the filing of the renewal.

(E) The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

(F) The commission may adopt rules that provide for a reduction in the fees established in divisions (B)(2) and (3) of this section.

Sec. 4735.16. (A) Every real estate broker licensed under this chapter ~~shall have and maintain a definite place of business in this state and~~ shall erect or maintain a sign on the business premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to

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buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, ~~including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns with respect to property the licensee does not own,~~ shall be identified in the advertisement by name and ~~by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement~~ indicate the name of the brokerage with which the licensee is affiliated.

(2) Any licensed real estate broker or sales person who advertises to sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property that the licensee owns, shall be identified in the advertisement by name and indicate that the property is agent owned, and if the property is listed with a real estate brokerage, the advertisement shall also indicate the name of the brokerage with which the property is listed.

(3) The name of the brokerage shall be displayed in equal prominence with the name of the salesperson in the advertisement. For purposes of this section, "brokerage" means the name the real estate company or sole broker is doing business as, or if the real estate company or sole broker does not use such a name, the name of the real estate company or sole broker as licensed.

(4) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(3)(5) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima-facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised

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Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, military status as defined in that section, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and professional licensing and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The

statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording and size of the pamphlet.

Sec. 4735.17. Licenses may be issued under sections 4735.01 to 4735.23 of the Revised Code, to nonresidents of this state and to foreign corporations, subject to the following additional requirements:

(A) The licensee, if a broker, shall maintain an active place of business in this state. A post office box is not an active place of business for purposes of this section.

(B) Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by the service of any process or pleading authorized by the laws of this state on the superintendent of real estate. The consent shall stipulate that such service shall be taken and held in all courts as valid and binding as if proper service had been made upon the applicant in this state. The instrument containing such consent shall be authenticated by signature or by corporate seal. All applications of firms or corporations shall be accompanied by a certified copy of the resolution of the proper officers or managing board authorizing the proper officer to execute them. A duplicate copy of any process or pleading served on the superintendent shall be immediately forwarded by certified mail to the main office of the licensee against which that process or pleading is directed.

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall, ~~pursuant to section 4735.051 of the Revised Code,~~ impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and ~~shall, pursuant to section 4735.051 of the Revised Code,~~ may impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

(1) Knowingly making any misrepresentation;

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(2) Making any false promises with intent to influence, persuade, or induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code,

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having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having advertised or placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code. Funds deposited in the trust or special account in connection with a purchase agreement shall be maintained in accordance with section 4735.24 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

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(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment or lien in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law;

(37) Having failed to comply with section 4735.24 of the Revised Code.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's

own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

~~(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state-certified real estate appraiser under Chapter 4763. of the Revised Code.~~

Sec. 4735.181. (A) No real estate broker or salesperson licensed pursuant to this chapter shall fail to comply with divisions (B) or (D) of section 4735.13, division (D) of section 4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised Code or any rules adopted under those divisions or sections.

(B) When the superintendent determines that a licensee has violated division (A) of this section, the superintendent may do either of the following:

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee.

(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(D) If any licensee is cited three times under this section within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

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(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation.

(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section.

Sec. 4735.182. If a check or other draft instrument used to pay any fee required under this chapter is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the superintendent shall notify the ~~licensee~~ entity or person that the check or other draft instrument was returned for insufficient funds ~~and~~.

(A) If the check or draft instrument was submitted by a licensee, the superintendent shall also notify the licensee that the licensee's license will be suspended unless the licensee, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the licensee does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent for insufficient funds unpaid by the financial institution upon which it is drawn for any reason, the license shall be suspended immediately without a hearing and the licensee shall cease activity as a licensee under this chapter.

(B) If the check or draft instrument was remitted by a person or entity applying to qualify foreign real estate or renew a property registration, the superintendent shall also notify the applicant that registration will be suspended, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of the fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the property registration shall be suspended immediately without a hearing and the applicant shall cease activity.

(C) If the check or draft instrument was remitted by an applicant for licensure, that application shall automatically be rejected or approval withdrawn, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

(D) If the check or draft instrument was remitted by an education course provider or course provider applicant, that application shall automatically be

rejected or approval withdrawn, unless applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

Sec. 4735.19. The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion and notice to the interested parties, may ~~reverse, vacate, or modify~~ hold a hearing to consider reversing, vacating, or modifying its own orders. An application ~~to the commission to reverse, vacate, or modify an order~~ shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties ~~pursuant to section 119.09 of the Revised Code. The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing the circumstances in which an interested party may request reconsideration.~~

Any applicant, ~~licensee, or complainant,~~ respondent dissatisfied with an order of the commission may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 4735.20. (A) Except as provided in divisions (B), (C), and (G) of this section, no licensed real estate broker or licensed foreign real estate dealer shall pay a commission, fee, or other compensation for performing any of the acts specified in section 4735.01 of the Revised Code to any person who is not a licensed real estate broker or a licensed real estate salesperson or to any person who is not a licensed foreign real estate dealer or a licensed foreign real estate salesperson.

(B) A licensed real estate broker or licensed foreign real estate dealer may pay a commission to a licensed real estate broker or licensed foreign real estate dealer of another state or country and may receive a commission from a licensed real estate broker or licensed foreign real estate dealer of another state or country, but only when done in accordance with rules adopted by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code.

(C) A licensed real estate broker may pay all or part of a fee, commission, or other compensation earned by an affiliated licensee to a partnership, association, limited liability company, limited liability partnership, or corporation that is not licensed as a real estate broker on the condition that all of the following conditions are satisfied:

(1) At least one of the partners, members, officers, or shareholders of

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the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation holds a valid and active license issued under this chapter.

(2) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation is the affiliated licensee who earned the fee, commission, or other compensation.

(3) The unlicensed partnership, association, limited liability company, limited liability partnership, or corporation does not engage in any of the acts specified in division (A) of section 4735.01 of the Revised Code.

(4) The broker verifies that the affiliated licensee complies with divisions (C)(1) and (2) of this section and keeps a record of this verification for a period of three years after the date of verification.

(5) The broker keeps a record of all of the following information for each transaction, for a period of three years after the date of the transaction:

(a) The name of the affiliated licensee who earned the fee, commission, or other compensation;

(b) The amount of the fee, commission, or other compensation that was earned;

(c) The name of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation to which the broker paid the affiliated licensee's fee, commission, or other compensation.

(D) Compliance with division (C) of this section does not relieve a broker described in that division of any obligations to supervise an affiliated licensee, or of any other requirements of this chapter or rules adopted pursuant to this chapter.

(E) Compliance with division (C) of this section does not render a broker described in that division or an affiliated licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of the Revised Code, or immune from personal liability in a civil action against the broker or affiliated licensee for a violation of this chapter.

(F) No broker shall pay a fee, commission, or other compensation that is due to an affiliated licensee to a third-party creditor of the affiliated licensee.

(G) Any owner of any interest in foreign real estate may refer a prospective buyer to the person who sold the owner that foreign real estate with the expectation of receiving valuable consideration, if all of the following conditions are satisfied:

(1) The person who sold the owner that foreign real estate is selling qualified foreign real estate pursuant to section 4735.25 of the Revised Code.

(2) Any fee, commission, or other valuable consideration promised or collected during any period consisting of twelve consecutive months does not exceed one thousand dollars.

(3) The owner does not engage in referring prospective buyers of foreign real estate pursuant to this section in the ordinary course of business or as a regular business practice.

(4) The owner does not show the foreign real estate, discuss terms or conditions of purchasing the foreign real estate, or otherwise participate in negotiations with regard to the offering or sale of the foreign real estate.

(5) If a foreign real estate transaction is consummated with a buyer who was referred by the owner to the person who sold the owner that foreign real estate, the occurrence of the referral shall be disclosed by the person who sold the owner that foreign real estate.

(H) The suspension or revocation of a real estate broker's or foreign real estate dealer's license automatically shall suspend every real estate salesperson's or foreign real estate salesperson's license granted to any person by virtue of association with the broker or dealer whose license has been suspended or revoked, pending a change of broker or dealer and the issuance of a new license. Such new license shall be issued without charges, if granted during the same year in which the original license was granted.

(I) A violation of this section is cause for imposing disciplinary sanctions in accordance with the proceedings specified in sections 4735.051, 4735.18, and 4735.32 of the Revised Code.

(J) For purposes of this section, "affiliated licensee" means a person who holds a valid and active license issued under this chapter and who is associated with the broker that is paying a fee, commission, or other compensation at the time that that fee, commission, or other compensation is earned.

Sec. 4735.21. No right of action shall accrue to any person, partnership, association, or corporation for the collection of compensation for the performance of the acts mentioned in section 4735.01 of the Revised Code, without alleging and proving that such person, partnership, association, or corporation was licensed as a real estate broker or foreign real estate dealer. Nothing contained in this section shall prevent a right of action from accruing after the expiration of a real estate or foreign real estate license if the act giving rise to the cause of action was performed by a licensee prior to such expiration.

No real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson shall collect any money in connection with any real estate or foreign real estate brokerage transaction, whether as a commission, deposit,

payment, rental, or otherwise, except in the name of and with the consent of the licensed real estate broker or licensed foreign real estate dealer under whom ~~he~~ the salesperson is licensed at the time the sales person earned the commission. Nor shall any real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson commence or maintain any action for a commission or other compensation in connection with a real estate or foreign real estate brokerage transaction, against any person except a person licensed as a real estate broker or foreign real estate dealer under whom ~~he~~ the salesperson is licensed as a ~~salesman~~ salesperson at the time the cause of action arose.

A salesperson licensed under this chapter shall not sell, assign, or otherwise transfer the salesperson's interest in a commission or any portion thereof to an unlicensed person or entity. If a salesperson makes such assignment or transfer, the broker shall not pay the transferee or assignee any portion of the commission. No cause of action shall arise on behalf of any person against a broker for not paying an assignee or transferee any portion of such an assignment or transfer.

Sec. 4735.211. All fines imposed under section 4735.051 of the Revised Code, and all fees and charges collected under sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 4735.28, and 4735.29 of the Revised Code, except such fees as are paid to the real estate education and research fund and real estate recovery fund as provided in this chapter, shall be paid into the state treasury to the credit of the division of real estate operating fund, which is hereby created. All operating expenses of the division of real estate shall be paid from the division of real estate operating fund.

The division of real estate operating fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessments shall be paid from the division of real estate operating fund to the division of administration fund.

If funds in the division of real estate operating fund are determined by the director of commerce to be in excess of those necessary to fund all the expenses of the division in any biennium, ~~he shall~~ the director may pay the excess funds to the real estate education and research fund.

Sec. 4735.32. (A)(1) The Ohio real estate commission or the superintendent of real estate may commence, at any time within three years from the date on which an alleged violation of a provision of this or another chapter of the Revised Code occurred, any investigation that relates to the conduct of a licensed real estate broker, real estate salesperson, foreign real

estate dealer, or foreign real estate salesperson, that is authorized pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or any other section of the Revised Code, and that is for purposes of determining whether ~~the a~~ a licensee, unlicensed person, or unlicensed entity has violated a provision of this or another chapter of the Revised Code and whether, as a consequence, ~~the a~~ a licensee's license should be suspended or revoked, or other disciplinary action taken, as provided in this or another chapter of the Revised Code. If such an investigation is not commenced within the three-year period, it shall be barred, and neither the commission nor the superintendent shall suspend or revoke the license of any licensee, or take other disciplinary action against any licensee, unlicensed person, or unlicensed entity because of the alleged violation of a provision of this or another chapter of the Revised Code that could have been the subject of the barred investigation.

(2) For purposes of division (A)(1) of this section, if an investigation that is authorized by section 4735.051 of the Revised Code is involved, it shall be considered to be commenced as of the date on which a person files a the complaint with the division of real estate ~~pursuant to division (A) of that section.~~

(B) This section does not affect any criminal or civil liability that a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, or any unlicensed person, may have under this or another chapter of the Revised Code or under the common law of this state.

Sec. 4735.55. (A) Each written agency agreement shall contain all of the following:

(1) An expiration date;

(2) A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

(3) A statement defining the practice known as "blockbusting" and stating that it is illegal;

(4) A copy of the United States department of housing and urban

development equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30, as amended.

(B) Each written agency agreement shall contain a place for the licensee and the client to sign and date the agreement.

(C) A licensee shall furnish a copy of any written agency agreement to a client in a timely manner after the licensee and the client have signed and dated it.

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or a seller's subagent working with a purchaser shall present the agency disclosure statement described in section 4735.57 of the Revised Code to the purchaser and request the purchaser to sign and date the statement no later than the preparation of an offer to purchase or lease, or a written request for a proposal to lease. The licensee shall deliver the statement signed by the purchaser to the seller's agent, or to the seller if the seller is not represented by an agent. Prior to presenting the seller with either a written offer to purchase or lease, or a written request for a proposal to lease, the seller's agent, or the purchaser's agent if the seller is not represented by an agent, shall present the agency disclosure statement to the seller and request the seller to sign and date the statement.

(2) A licensee shall indicate the accurate agency relationship on the agency disclosure statement.

(B) A licensee selling property at auction shall, prior to the auction, verbally disclose to the audience that the licensee represents the seller in the real estate transaction. The licensee shall provide the agency disclosure statement described in section 4735.57 of the Revised Code to the successful bidder prior to the bidder's signing a purchase contract.

(C) Evidence that a licensee has failed to comply with this section constitutes prima-facie evidence of misconduct in violation of division (A)(6) of section 4735.18 of the Revised Code.

(D) The disclosure requirements of this section do not apply in any of the following situations:

(1) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less;

(2) The referral of a prospective purchaser or seller to another licensee;

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code;

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.

(E) The licensee is obligated to perform all duties imposed on a real

estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement.

Sec. 4735.59. To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or following verbal disclosure of the agency relationship, the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship.

The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction.

Sec. 4735.62. In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following:

- (A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
- (B) Performing the terms of any written agency agreement;
- (C) Following any lawful instructions of the client;
- (D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;
- (E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended;
- (F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;
- (G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;
- (H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;
- (I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.

Sec. 4735.68. (A) A licensee is not liable to any party for false

information that the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction, unless the licensee had actual knowledge that the information was false or acted with reckless disregard for the truth.

(B) No cause of action shall arise on behalf of any person against a client for any misrepresentation a licensee made while representing that client unless the client had actual knowledge of the licensee's misrepresentation.

(C) Knowledge of or information contained in a brokerage or an affiliated or past licensee's transaction records of any current or previous defect, adverse condition, or repair in real property shall not be imputed to that broker or to other licensees affiliated with that broker. No cause of action based on imputed knowledge shall accrue on behalf of any person against a broker or affiliated licensee for failure to disclose such defects, adverse condition, or repair.

Sec. 4735.71. (A) No licensee or brokerage shall participate in a dual agency relationship described in section 4735.70 of the Revised Code unless both the seller and the purchaser in the transaction have full knowledge of the dual representation and consent in writing to the dual representation on the agency disclosure statement described in section 4735.57 of the Revised Code. Before a licensee obtains the consent of any party to a dual agency relationship, the licensee shall disclose to both the purchaser and the seller all relevant information necessary to enable each party to make an informed decision as to whether to consent to the dual agency relationship. If, after consent is obtained, there is a material change in the information disclosed to the purchaser and the seller, the licensee shall disclose the change of information to the purchaser and the seller and give them an opportunity to revoke their consent.

(B) No brokerage shall participate in a dual agency relationship described in division (C) of section 4735.70 of the Revised Code, unless each of the following conditions is met:

(1) The brokerage has established a procedure under section 4735.54 of the Revised Code under which licensees, including management level licensees, who represent one client will not have access to and will not obtain confidential information concerning another client of the brokerage involved in the dual agency transaction.

(2) Each licensee fulfills the licensee's duties exclusively to the licensee's client.

(C) No salesperson or broker licensed under this chapter shall participate in a dual agency relationship in which the licensee is a party to

the transaction, either personally or as an officer or member of a partnership, association, limited liability company, limited liability partnership, or corporation that has an interest in the real property that is the subject of the transaction or an entity that has an intention of purchasing, leasing, or exchanging the real property.

Sec. 4735.74. Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless:

(1) The client permits disclosure;

(2) Disclosure is required by law or by court order;

(3) The information becomes public from a source other than the licensee;

(4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction.

(6) Disclosure is regarding sales information requested by a registered appraiser assistant or a licensed or certified appraiser for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~seventy-four~~ eighty dollars.

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(5) The renewal fee for sanitarians-in-training shall be ~~seventy-four~~ eighty dollars.

(6) For late application for renewal, ~~twenty-seven~~ an additional fifty dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency;

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training;

(3) Additional copies of pocket identification cards and wall certificates.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. ~~Of the advisory committee's members, three~~ The advisory committee shall be made up of the following members:

(1) ~~Three~~ shall be general contractors who have recognized ability and experience in the construction of residential buildings, ~~two~~.

(2) ~~Two~~ shall be building officials who have experience administering and enforcing a residential building code, ~~one~~.

(3) ~~One~~, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes, ~~one~~.

(4) ~~One~~ shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings, ~~one~~.

(5) ~~One~~ shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, ~~and one~~.

(6) One, chosen from a list of three names the Ohio municipal league

submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

~~(B) The director shall make appointments to the advisory committee within ninety days after May 27, 2005.~~

Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. ~~The director shall fill a vacancy~~ Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.

(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on

the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the labor operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers, except that the board shall charge only one fee to a person who fulfills all requirements for more than one of the following initial licenses: an initial license as a social worker or independent social worker, an initial license as a professional counselor or professional clinical counselor, and an initial license as a marriage and family therapist or independent marriage and family therapist;

(3) Initial certificates of registration of social work assistants;

(4) Renewal and late renewal of licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers and renewal and late renewal of certificates of registration of social work assistants;

(5) Verification, to another jurisdiction, of a license or registration issued by the board;

(6) Continuing education programs offered by the board to licensees or registrants;

(7) Approval of continuing education programs;

(8) Approval of continuing education providers to be authorized to offer continuing education programs without prior approval from the board for each program offered;

(9) Issuance of a replacement copy of any wall certificate issued by the board.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2) to ~~(6)~~(9) of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4776.01. As used in this chapter:

(A) "License" means any of the following:

(1) An authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency described in division (C)(1) of this section to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(2) An authorization evidenced by a license or certificate that is issued by a licensing agency described in division (C)(2) of this section pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code to a licensee or to an applicant for an initial license by which the licensee or

initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing agency has jurisdiction.

(B) "Licensee" means the person to whom the license is issued by a licensing agency.

(C) "Licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 4759., 4760., 4761., 4762., and 4779. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement, or similar manner of a license issued in another state.

(E) "Applicant for a restored license" includes persons seeking restoration of a certificate under section 4730.14, 4731.281, 4760.06, or 4762.06 of the Revised Code.

(F) "Criminal records check" has the same meaning as in ~~division (E)~~ of section 109.572 of the Revised Code.

Sec. 4906.01. As used in Chapter 4906. of the Revised Code:

(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.

(B)(1) "Major utility facility" means:

~~(1)(a)~~ Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;

~~(2)(b)~~ An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

~~(3)(c)~~ A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.

(2) "Major utility facility" does not include electric gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, any solid waste facilities as defined in section 6123.01 of the Revised Code, or either of the following as defined by the power siting board:

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(a) Electric, gas, natural gas distributing lines and gas or natural gas gathering lines and associated facilities ~~as defined by the power siting board, nor gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, nor any solid waste facilities as defined in section 6123.01 of the Revised Code;~~

(b) Any manufacturing facility that creates byproducts that may be used in the generation of electricity.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section 4906.10 of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) of section 4906.03 of the Revised Code.

Sec. 4911.02. (A) The consumers' counsel shall be appointed by the consumers' counsel governing board, and shall hold office at the pleasure of the board.

(B)(1) The counsel may sue or be sued and has the powers and duties granted ~~him~~ the counsel under this chapter, and all necessary powers to carry out the purposes of this chapter.

(2) Without limitation because of enumeration, the counsel:

(a) Shall have all the rights and powers of any party in interest appearing before the public utilities commission regarding examination and cross-examination of witnesses, presentation of evidence, and other matters;

(b) May take appropriate action with respect to residential consumer complaints concerning quality of service, service charges, and the operation of the public utilities commission;

(c) May institute, intervene in, or otherwise participate in proceedings in both state and federal courts and administrative agencies on behalf of the residential consumers concerning review of decisions rendered by, or failure to act by, the public utilities commission;

(d) May conduct long range studies concerning various topics relevant to the rates charged to ~~residential~~ residential consumers.

(C) The counsel shall follow the policies of the state as set forth in Chapter 4929. of the Revised Code that involve supporting retail natural gas competition.

Sec. 4911.021. The consumers' counsel shall not operate a telephone

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call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 4927.12 of the Revised Code and, ~~if applicable, under rules adopted by the public utilities commission for the pilot program for community voicemail service created in S.B. 162 of the 128th general assembly,~~ a telephone company shall provide at least fifteen days' advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service.

(B) A telephone company shall inform its customers of the commission's toll-free number and e-mail address on all bills and disconnection notices and any residential customers of the office of the consumers' counsel's toll-free number and e-mail address on all residential bills and disconnection notices.

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.

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(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 ninety 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 or as provided in section 7.16 of the Revised Code. 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

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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

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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 as 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)(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 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 charges that relate to 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. 4929.26. (A)(1) 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, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise its authority under this section jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets any of the following criteria:

(i) The person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer.

(ii) The person is supplied with commodity sales service pursuant to a

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contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(iii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(ii) or (iii) of this section or upon the person no longer being a customer as described in division (A)(2)(a)(i) of this section or qualifying to be included in an aggregation described under division (A)(2)(a)(iii) of this section.

(B) An ordinance or resolution adopted under division (A) of this section 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 ninety 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 or as provided in section 7.16 of the Revised Code. 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, shall aggregate any retail natural gas load located within its jurisdiction unless it in advance clearly discloses to the person whose retail natural gas load is to be so

aggregated that the person will be enrolled automatically in the aggregation 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 the opportunity to opt out of the aggregation every two years, without paying a switching fee. Any such person that opts out of the aggregation pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, 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 the township or the unincorporated area of the county, respectively, 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 natural gas, 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 natural gas service it provides and commission authority under this chapter.

Sec. 4929.27. (A)(1) 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, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate, with the prior consent of each person whose retail natural gas load is proposed to be aggregated, competitive retail natural gas service for any such retail natural gas load that is located,

respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets either of the following criteria:

(i) The person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(ii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(i) or (ii) of this section or upon the person no longer qualifying to be included in an aggregation.

(B) Upon the applicable requisite authority under division (A) 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 or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(C)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to division (A) 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 division (A) 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 the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area.

(D) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, 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 natural gas service it provides and commission authority under this chapter.

Sec. 4931.40. As used in sections 4931.40 to 4931.70 of the Revised Code:

(A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller provides information on the nature of and the location of an emergency, and the personnel receiving the call must determine the appropriate emergency service provider to respond at that location.

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of providing both enhanced wireline 9-1-1 and wireless enhanced 9-1-1.

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which the wireline telephone network, in providing wireline 9-1-1, automatically routes the call to emergency service providers that serve the location from which the call is made and immediately provides to personnel answering the 9-1-1 call information on the location and the telephone number from which the call is being made.

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in providing wireless 9-1-1, has the capabilities of phase I and, to the extent available, phase II enhanced 9-1-1 services as described in 47 C.F.R. 20.18 (d) to (h).

(F)(1) "Wireless service" means federally licensed commercial mobile

service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and includes service provided by any wireless, two-way communications device, including a radio-telephone communications line used in cellular telephone service or personal communications service, a network radio access line, or any functional or competitive equivalent of such a radio-telephone communications or network radio access line.

(2) Nothing in sections 4931.40 to 4931.70 of the Revised Code applies to paging or any service that cannot be used to call 9-1-1.

(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.

(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.

(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.

(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.

(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.

(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance district, or joint emergency medical services district that provides emergency service within its territory, or that contracts with another municipal corporation, township, or district or with a private entity to provide such service; and a state college or university, port authority, or park district of any kind that employs law enforcement officers that act as the primary police force on the grounds of the college or university or port authority or in the parks operated by the district.

(N) "Emergency service" means emergency law enforcement, firefighting, ambulance, rescue, and medical service.

(O) "Emergency service provider" means the state highway patrol and an emergency service department or unit of a subdivision or that provides

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emergency service to a subdivision under contract with the subdivision.

(P) "Public safety answering point" means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

(Q) "Customer premises equipment" means telecommunications equipment, including telephone instruments, on the premises of a public safety answering point that is used in answering and responding to 9-1-1 system calls.

(R) "Municipal corporation in the county" includes any municipal corporation that is wholly contained in the county and each municipal corporation located in more than one county that has a greater proportion of its territory in the county to which the term refers than in any other county.

(S) "Board of county commissioners" includes the legislative authority of a county established under Section 3 of Article X, Ohio Constitution, or Chapter 302. of the Revised Code.

(T) "Final plan" means a final plan adopted under division (B) of section 4931.44 of the Revised Code and, except as otherwise expressly provided, an amended final plan adopted under section 4931.45 of the Revised Code.

(U) "Subdivision served by a public safety answering point" means a subdivision that provides emergency service for any part of its territory that is located within the territory of a public safety answering point whether the subdivision provides the emergency service with its own employees or pursuant to a contract.

(V) A township's population includes only population of the unincorporated portion of the township.

(W) "Telephone company" means a company engaged in the business of providing local exchange telephone service by making available or furnishing access and a dial tone to persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and gaining access to other telecommunications services. "Telephone company" includes a wireline service provider and a wireless service provider unless otherwise expressly specified. For purposes of sections 4931.52 and 4931.53 of the Revised Code, "telephone company" means a wireline service provider.

Sec. 4931.51. (A)(1) For the purpose of paying the costs of establishing, equipping, and furnishing one or more public safety answering points as part

of a countywide 9-1-1 system effective under division (B) of section 4931.44 of the Revised Code and paying the expense of administering and enforcing this section, the board of county commissioners of a county, in accordance with this section, may fix and impose, on each lot or parcel of real property in the county that is owned by a person, municipal corporation, township, or other political subdivision and is improved, or is in the process of being improved, reasonable charges to be paid by each such owner. The charges shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels.

(2) For the purpose of paying the costs of operating and maintaining the answering points and paying the expense of administering and enforcing this section, the board, in accordance with this section, may fix and impose reasonable charges to be paid by each owner, as provided in division (A)(1) of this section, that shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels. The board may fix and impose charges under this division pursuant to a resolution adopted for the purposes of both divisions (A)(1) and (2) of this section or pursuant to a resolution adopted solely for the purpose of division (A)(2) of this section, and charges imposed under division (A)(2) of this section may be separately imposed or combined with charges imposed under division (A)(1) of this section.

(B) Any board adopting a resolution under this section pursuant to a final plan initiating the establishment of a 9-1-1 system or pursuant to an amendment to a final plan shall adopt the resolution within sixty days after the board receives the final plan for the 9-1-1 system pursuant to division (C) of section 4931.43 of the Revised Code. The board by resolution may change any charge imposed under this section whenever the board considers it advisable. Any resolution adopted under this section shall declare whether securities will be issued under Chapter 133. of the Revised Code in anticipation of the collection of unpaid special assessments levied under this section.

(C) The board shall adopt a resolution under this section at a public meeting held in accordance with section 121.22 of the Revised Code. Additionally, the board, before adopting any such resolution, shall hold at least two public hearings on the proposed charges. Prior to the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall include a listing of the charges proposed in the resolution and the date, time, and location of each of the hearings. The board shall hear any person who

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wishes to testify on the charges or the resolution.

(D) No resolution adopted under this section shall be effective sooner than thirty days following its adoption nor shall any such resolution be adopted as an emergency measure. The resolution is subject to a referendum in accordance with sections 305.31 to 305.41 of the Revised Code unless, in the resolution, the board of county commissioners directs the board of elections of the county to submit the question of imposing the charges to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No resolution shall go into effect unless approved by a majority of those voting upon it in any election allowed under this division.

(E) To collect charges imposed under division (A) of this section, the board of county commissioners shall certify them to the county auditor of the county who then shall place them upon the real property duplicate against the properties to be assessed, as provided in division (A) of this section. Each assessment shall bear interest at the same rate that securities issued in anticipation of the collection of the assessments bear, is a lien on the property assessed from the date placed upon the real property duplicate by the auditor, and shall be collected in the same manner as other taxes.

(F) All money collected by or on behalf of a county under this section shall be paid to the county treasurer of the county and kept in a separate and distinct fund to the credit of the county. The fund shall be used to pay the costs allowed in division (A) of this section and specified in the resolution adopted under that division. In no case shall any surplus so collected be expended for other than the use and benefit of the county.

Sec. 4931.52. (A) This section applies only to a county that meets both of the following conditions:

(1) A final plan for a countywide 9-1-1 system either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding;

(2) The board of county commissioners, at least once, has submitted to the electors of the county the question of raising funds for a 9-1-1 system under section 4931.51, 5705.19, or 5739.026 of the Revised Code, and a majority of the electors has disapproved the question each time it was submitted.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system, which public safety answering points

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shall be only twenty-four-hour dispatching points already existing in the county. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board may not impose a charge greater than the amount approved by the electors without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Pursuant to the voter approval required by division (C) of this

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section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 4931.53. (A) This section applies only to a county that has a final plan for a countywide 9-1-1 system that either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area of the county served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board shall not impose a charge greater than the amount approved by the electors

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without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Nothing in sections 4931.40 to 4931.53 of the Revised Code precludes a final plan adopted in accordance with those sections from being amended to provide that, by agreement included in the plan, a public safety answering point of another countywide 9-1-1 system is the public safety answering point of a countywide 9-1-1 system funded through a monthly charge imposed in accordance with this section. In that event, the county for which the public safety answering point is provided shall be deemed the subdivision operating the public safety answering point for purposes of sections 4931.40 to 4931.53 of the Revised Code, except that, for the purpose of division (D) of section 4931.41 of the Revised Code, the county shall pay only so much of the costs associated with establishing, equipping, furnishing, operating, or maintaining the public safety answering point specified in the agreement included in the final plan.

(F) Pursuant to the voter approval required by division (C) of this section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section, or that will be amended to include an agreement described in division (E) of this section, shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(6) "Public assistance expenditures" means expenditures for all of the following:

- (a) Ohio works first;
- (b) County administration of Ohio works first;
- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- (f) County administration of disability financial assistance;
- (g) County administration of the supplemental nutrition assistance program;

(h) County administration of medicaid.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of

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the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ~~ten~~ five per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ~~ten~~ five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of

average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "~~public~~ assistance":

(1) "Public assistance" ~~includes, in addition to Ohio works first,~~ means any or all of the following:

~~(1)(a) Ohio works first;~~

(b) Prevention, retention, and contingency;

~~(2) Medicaid;~~

~~(3)(c) Disability financial assistance;~~

~~(4)(d) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.~~

(2) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., ~~5111.~~, or 5115. of the Revised Code, the director of job and family services ~~shall~~ may furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be

disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A ~~or under Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)~~(H)~~ The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~

(E) On the request of the director of job and family services, the auditor of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.

(F) The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., ~~5111.~~, and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and, the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

~~(2)(G)~~ (G) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the sections 5101.27 and 5101.271 of the Revised Code and adopts rules of the director of job and family services restricting the disclosure of

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information regarding recipients of public assistance or medical assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3)(H) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this ~~division~~ section shall be borne by the auditor of state.

Sec. 5101.182. As part of the procedure for the determination of overpayment to a recipient of public assistance ~~under Chapter 5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised Code, the director of job and family services ~~shall~~ may semiannually, at times determined jointly by the auditor of state and the tax commissioner, furnish to the tax commissioner in computer format the name and social security number of each individual who receives public assistance. Within sixty days after receiving the name and social security number of a recipient of public assistance, the commissioner shall inform the auditor of state whether the individual filed an Ohio individual income tax return, separate or joint, as provided by section 5747.08 of the Revised Code, for either or both of the two taxable years preceding the year in which the director furnished the names and social security numbers to the commissioner. If the individual did so file, at the same time the commissioner shall also inform the auditor of state of the amount of the federal adjusted gross income as reported on such returns and of the addresses on such returns. The commissioner shall also advise the auditor of state whether such returns were filed on a joint basis, as provided in section 5747.08 of the Revised Code, in which case the federal adjusted gross income as reported may be that of the individual or the individual's spouse.

If the auditor of state determines that further investigation is needed, the auditor of state may request the commissioner to determine whether the individual filed income tax returns for any previous taxable years in which the individual received public assistance and for which the tax department retains income tax returns. Within fourteen days of receipt of the request, the commissioner shall inform the auditor of state whether the individual filed an individual income tax return for the taxable years in question, of the amount of the federal adjusted gross income as reported on such returns, of the addresses on such returns, and whether the returns were filed on a joint or separate basis.

If the auditor of state determines that further investigation is needed of a recipient of public assistance who filed an Ohio individual income tax return, the auditor of state may request a certified copy of the Ohio

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individual income tax return or returns of that person for the taxable years described above, together with any other documents the commissioner has concerning the return or returns. Within fourteen days of receipt of such a request in writing, the commissioner shall forward the returns and documents to the auditor of state.

The director of job and family services, ~~district director of job and family services~~, county director of job and family services, county prosecutor, attorney general, auditor of state, or any agent or employee of those officials having access to any information or documents furnished by the commissioner pursuant to this section shall not divulge or use any such information except for the purpose of determining overpayment of public assistance, or for an audit, investigation, or prosecution, or in accordance with a proper judicial order. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state or county board, commission, or agency.

Sec. 5101.183. (A) The Except as provided in section 5111.12 of the Revised Code, the director of job and family services, in accordance with section 111.15 of the Revised Code, may adopt rules under which county ~~departments of job and family services or public children services~~ agencies shall take action to recover the cost of ~~social~~ the following benefits and services:

(1) Benefits or services provided to any of the following:

~~(1)(a)~~ (a) Persons who were not eligible for ~~social~~ the benefits or services but who secured ~~social~~ the benefits or services through fraud or misrepresentation;

~~(2)(b)~~ (b) Persons who were eligible for ~~social~~ the benefits or services but who intentionally diverted the benefits or services to other persons who were not eligible for the benefits or services.

(2) Any benefits or services provided by a county family services agency for which recovery is required or permitted by federal law for the federal programs administered by the agency.

(B) A county ~~department of job and family services or public children services~~ agency may bring a civil action against a recipient of ~~social~~ benefits or services to recover any costs described in division (A) of this section.

(C) A county ~~department of job and family services or public children services~~ agency shall retain any money it recovers under division (A) of this section and shall use the money ~~for the provision of social~~ to meet a family services duty, except that, if federal law requires the department of job and family services to return any portion of the money so recovered to the

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federal government, the county ~~department or family services~~ agency shall pay that portion to the department of job and family services.

Sec. 5101.244. (A) If the department of job and family services determines that a grant awarded to a county grantee in a grant agreement entered into under section 5101.21 of the Revised Code, an allocation, advance, or reimbursement the department makes to a county family services agency, or a cash draw a county family services agency makes exceeds the allowable amount for the grant, allocation, advance, reimbursement, or cash draw, the department may adjust take one or more of the following actions to recover the excess amount:

(1) The department may adjust, offset, withhold, or reduce an allocation, cash draw, advance, reimbursement, or other financial assistance to the county grantee or county family services agency as necessary to recover the excess amount of the excess grant, allocation, advance, reimbursement, or cash draw.

(2) The department may enter into an agreement with the county grantee or county family services agency for repayment of the excess amount by the grantee or agency. The department may require that the repayment include interest on the excess amount, calculated from the day that the excess occurred at a rate not exceeding the rate per annum prescribed by section 5703.47 of the Revised Code.

(3) The department may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against the county grantee or county family services agency to recover the excess amount. The

(B) In taking an action authorized under this section, the department is not required to make the adjustment, offset, withholding, or reduction take the action in accordance with section 5101.24 of the Revised Code.

(C) The director of job and family services may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules.

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,

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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 pursuant to, or under the programs established under sections by, section 5101.49, sections 5101.50, 5101.51, 5101.52, and 5101.5211 to 5101.5216 to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(F) "Medical assistance recipient" means an applicant for or recipient or former recipient of medical assistance.

(G) "Public assistance" means financial assistance, ~~medical assistance,~~ or social services that are not medical assistance 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)~~(H) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.27. (A) Except as permitted by this section, section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised Code, or ~~the rules adopted under division (A) of~~ section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall solicit, disclose, receive, use, or knowingly permit, or participate in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program.

(B) To the extent permitted by federal law, the department of job and family services and county agencies shall do all of the following:

(1) Release information regarding a public assistance recipient for purposes directly connected to the administration of the program to a

government entity responsible for administering that public assistance program;

(2) Provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of that public assistance program;

(3) Provide, for purposes directly connected to the administration of a program that assists needy individuals with the costs of public utility services, information regarding a recipient of financial assistance provided under a program administered by the department or a county agency pursuant to Chapter 5107, or 5108, of the Revised Code or sections 5115.01 to 5115.07 of the Revised Code to an entity administering the public utility services program.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the department and county agencies shall provide access to information regarding a public assistance recipient to all of the following:

- (1) The recipient;
- (2) The authorized representative;
- (3) The legal guardian of the recipient;
- (4) The attorney of the recipient, if the attorney has written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only in accordance with the authorization. The department or county agency shall provide, at no cost, a copy of each written authorization to the individual who signed it.

~~(F) The department or county agency may release information under division (D) of this section concerning the receipt of medical assistance~~

~~provided under a public assistance program only if all of the following conditions are met:~~

~~(1) The release of information is for purposes directly connected to the administration of or provision of medical assistance provided under a public assistance program;~~

~~(2) The information is released to persons or government entities that are subject to standards of confidentiality and safeguarding information substantially comparable to those established for medical assistance provided under a public assistance program;~~

~~(3) The department or county agency has obtained an authorization consistent with section 5101.271 of the Revised Code.~~

~~(G) Information concerning the receipt of medical assistance provided under a public assistance program may be released only if the release complies with this section and rules adopted by the department pursuant to section 5101.30 of the Revised Code or, if more restrictive, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, and regulations adopted by the United States department of health and human services to implement the act.~~

~~(H) The department of job and family services may adopt rules defining "authorized representative" for purposes of division (C)(2) of this section.~~

Sec. 5101.271. (A) Except as permitted by this section, section 5101.273, or rules adopted under section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of the medical assistance program.

(B) Both of the following shall be considered to be purposes directly connected with the administration of the medical assistance program:

(1) Treatment, payment, or other operations or activities authorized by 42 C.F.R. Chapter IV;

(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law.

(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following:

(1) The recipient or the recipient's authorized representative;

(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code;

(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R. 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(5) A court if pursuant to a written order of the court.

(D) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. ~~5101.271~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related

either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for public assistance or medical assistance cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance or medical assistance program.

(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (C)(3) of section 5101.271 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code.

(C) When an individual requests information pursuant to section 5101.27 or 5101.271 of the Revised Code regarding the individual's receipt of public assistance or medical assistance and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

~~Sec. 5101.272 5101.273. Not later than August 31, 2007, the director of job and family services shall submit a report to the general assembly on the costs and potential three-year cost savings associated with participation in the federally administered public assistance reporting information system. If cost savings are indicated in the report, not later than October 1, 2007, the~~ The department of job and family services shall enter into any necessary agreements with the United States department of health and human services

and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a public assistance recipient or medical assistance recipient to the extent necessary to participate as an active member in the public assistance reporting information system.

Sec. 5101.28. (A)(1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department or county agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is a fugitive felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information, ~~except information directly related to the receipt of medical assistance or medical services,~~ regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages

in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by federal law to conduct an audit of, or similar activity involving, a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

(H) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 5101.30. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code implementing sections 5101.26 to 5101.30 of the Revised Code and governing the custody,

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use, disclosure, and preservation of the information generated or received by the department of job and family services, county agencies, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of public assistance or medical assistance programs. The rules shall comply with applicable federal statutes and regulations. ~~The~~

(1) The rules shall specify conditions and procedures for the release of information. ~~The rules shall comply with applicable federal statutes and regulations. To the extent permitted by federal law which may include, among other conditions and procedures, both of the following:~~

~~(1) The rules may permit~~ (a) Permitting providers of services or assistance under public assistance programs limited access to information that is essential for the providers to render services or assistance or to bill for services or assistance rendered. The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules pursuant to division (A)(1) of this section.

~~(2) The rules may permit~~ (b) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or county agency. A contractor, grantee, or entity given access to information pursuant to division (A)(2) of this section is bound by the director's rules, and disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

(2) The rules may define who is an "authorized representative" for purposes of sections 5101.27, 5101.271, and 5101.272 of the Revised Code.

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the department or a county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.341. (A) The Ohio commission on fatherhood annually shall elect a chairperson from among its members. ~~The~~

(B) The governor shall appoint an individual to serve as the commission's executive director. The executive director shall serve at the pleasure of the governor and shall report to the director of job and family services or the director's designee.

The governor shall fix the executive director's salary on the basis of the executive director's experience and the executive director's responsibilities

and duties. The executive director shall be in the unclassified civil service.

The department of job and family services shall provide staff and other support services as necessary for the commission to fulfill its duties.

~~(B)~~(C) The commission may accept gifts, grants, donations, contributions, benefits, and other funds from any public agency or private source to carry out any or all of the commission's duties. The funds shall be deposited into the Ohio commission on fatherhood fund, which is hereby created in the state treasury. All gifts, grants, donations, contributions, benefits, and other funds received by the commission pursuant to this division shall be used solely to support the operations of the commission.

Sec. 5101.342. The Ohio commission on fatherhood shall do both of the following:

(A) Organize a state summit on fatherhood every four years;

(B)~~(H)~~ Prepare a report each year that ~~identifies~~ does the following:

(1) Identifies resources available to fund fatherhood-related programs and explores the creation of initiatives to do the following:

(a) Build the parenting skills of fathers;

(b) Provide employment-related services for low-income, noncustodial fathers;

(c) Prevent premature fatherhood;

(d) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution, as defined in section 2967.01 of the Revised Code, or in any other detention facility, as defined in section 2921.01 of the Revised Code, so that they are able to maintain or reestablish their relationships with their families;

(e) Reconcile fathers with their families;

(f) Increase public awareness of the critical role fathers play.

(2) Describes the commission's expectations for the outcomes of fatherhood-related programs and initiatives and the methods the commission uses for conducting annual measures of those outcomes.

(C) The portion of the report prepared pursuant to division (B)(2) of this section shall be prepared by the commission in collaboration with the director of job and family services.

(D) The commission shall submit each report prepared pursuant to division (B)~~(H)~~ of this section to the president and minority leader of the senate, speaker and minority leader of the house of representatives, governor, and chief justice of the supreme court. The first report is due not later than one year after the last of the initial appointments to the commission is made under section 5101.341 of the Revised Code.

Sec. 5101.35. (A) As used in this section:

(1) "Agency" means the following entities that administer a family services program:

- (a) The department of job and family services;
- (b) A county department of job and family services;
- (c) A public children services agency;
- (d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section ~~473.35~~ 5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal

decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.37. (A) The department of job and family services and each county department of job and family services and child support enforcement agency may ~~make~~ conduct any audits or investigations that are necessary in the performance of their duties, and to that end they shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or

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papers.

The department and each county department and agency shall keep a record of their audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The department and each agency shall keep a record of those hearings stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

The issuance of a subpoena by the department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the department or agency is not required to pay the fees of witnesses for attendance and travel.

(C) Any judge of any division of the court of common pleas, upon application of the department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(D) Until an audit report is formally released by the department of job and family services, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

(E) The director of job and family services may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug

addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities.

(2) Each of the state ~~department~~ departments shall, subject to the approval of the controlling board, develop ~~formulas~~ a formula for the distribution of ~~their the~~ Title XX ~~appropriations~~ funds appropriated to the department to ~~their its~~ respective local agencies. The ~~formulas~~ formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency, the;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines, and the;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend ~~no~~ for state administrative costs not more than three per cent of ~~its the~~ Title XX ~~appropriation for state administrative costs~~ funds appropriated to the department. ~~Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation~~

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend ~~no~~ for the training of the following not more than two per cent of ~~its the~~ Title XX ~~appropriation for the training of the following~~ funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual

reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) ~~The~~ Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised

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Code.

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions (B) and (C) of this section, the ~~director~~ department of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50, ~~5101.51, and 5101.52~~ to 5101.529 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

(4) The supplemental nutrition assistance program administered by the department ~~of job and family services~~ pursuant to section 5101.54 of the Revised Code;

(5) Other programs the director of job and family services determines are supportive of children, adults, or families;

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program.

(C) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the ~~director~~ department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the ~~director~~ department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The ~~director~~ department is subject to federal statutes and regulations

and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

~~(D)~~(E) The director may adopt rules as necessary to implement this section.

Sec. 5101.57. (A) As used in this section:

(1) "Nontherapeutic abortion" has the same meaning as in section 124.85 of the Revised Code.

(2) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not include either of the following:

(a) A municipal corporation;

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution.

(3) "Public facility" means any institution, structure, equipment, or physical asset that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or political subdivision thereof. "Public facility" includes any state university, state medical college, health district, joint hospital, or public hospital agency.

(B) No public facility shall be used for the purpose of performing or inducing a nontherapeutic abortion.

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, 5101.51, and 5101.52 of the Revised Code;

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~~(3) 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. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than ~~three~~ six years after the date of the provision of such medical item or service;

(3) Not charge a fee to do either of the following for a claim described

in division (A)(2) of this section:

(a) Determine whether the claim should be paid;

(b) Process the claim.

(4) Pay a claim described in division (A)(2) of this section;

~~(4)(5)~~ Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:

(a) The claim was submitted by the department not later than ~~three~~ six years after the date of the provision of the medical item or service.

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

~~(5)(6)~~ Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

~~(6)(7)~~ Not deny a claim described in division (A)~~(5)(6)~~ of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:

(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code;

(2) The department has assigned its right of recovery for the claim to the managed care organization.

(C) The time limitations associated with the requirements in divisions (A)(2) and ~~(A)(4)(5)~~ of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies.

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 department of job and family services when medical assistance under medicaid ~~or the children's buy-in 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. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter ~~3722~~, 5119, of the Revised Code, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to

consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory

committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a

requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of

the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this

section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.98. (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under section 5747.113 of the Revised Code, of incentive grants authorized by the "Jobs for Veterans Act," 116 Stat. 2033 (2002), and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations; and

(6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial

made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.

(E) "Career pathways model" means an alternative pathway to meeting the requirements for a child care staff member or administrator that uses one framework to integrate the pathways of formal education, training, experience, and specialized credentials, and certifications, and that allows the member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

~~(F)~~(G) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

~~(G)~~(H) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, or school child.

~~(I)~~(J) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990),

42 U.S.C. 9858, as amended.

~~(J)~~(K) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

~~(K)~~(L) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

~~(L)~~(M) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

(d) The child care is provided only for preschool and school children.

~~(M)~~(N) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.

~~(N)~~(O) "Child care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child care;

(3) Provision of timely referrals of available child care providers to families seeking child care;

(4) Recruitment of child care providers;

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child care in the community;

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

~~(O)~~(P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(P)~~(Q) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

~~(Q)~~(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(R)~~(S) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

~~(S)~~(T) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(T)~~(U) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center.

~~(U)~~(V) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

~~(V)~~(W) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

~~(W)~~(X) "Infant" means a child who is less than eighteen months of age.

~~(X)~~(Y) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

~~(Y)~~(Z) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to

develop an indicator checklist.

~~(Z)~~(AA) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, ~~number of available child-care staff members,~~ amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license.

(AA)(BB) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

~~(BB)~~(CC) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

~~(CC)~~(DD) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

~~(DD)~~(EE) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

~~(FF)~~(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for no more than four hours a day for any child.

~~(GG)~~(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any

other buildings on the grounds used for such activities.

~~(HH)~~(II) "Preschool child" means a child who is three years old or older but is not a school child.

~~(H)~~(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.

~~(JJ)~~(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

~~(KK)~~(LL) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

~~(LL)~~(MM) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

~~(MM)~~(NN) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.

(PP) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

~~(OO)~~(QQ) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

~~(QQ)~~(SS) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school child care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The

rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, ~~including, but not limited to,~~ that may include any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing,~~ denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

~~(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;~~

~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

~~(18)~~(17) A procedure for reporting of injuries of children that occur at the center;

~~(19)~~(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play

space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of	
	Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		

(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, ~~or~~ at least two years of experience in supervising and giving daily care to children attending an organized group program, or the equivalent based on a designation as an "early childhood professional level three" under the career pathways model of the quality-rating program established under section 5104.30 of the Revised Code.

(b) In addition to the requirements of division (B)(4)(a) of this section and except as provided in division (B)(4)(c) of this section, any administrator employed or designated ~~on or after September 1, 1986, as such prior to the effective date of this section, as amended~~, shall show evidence of, ~~and any administrator employed or designated prior to September 1, 1986, shall show evidence~~ at least one of the following within six years after such the date of, at least one of the following employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(c) For the purposes of division (B)(4)(b) of this section, any administrator employed or designated as such prior to the effective date of this section, as amended, may also show evidence of an administrator's

credential as approved by the department of job and family services in lieu of, or in addition to, the evidence required under division (B)(4)(b) of this section. The evidence of an administrator's credential must be shown to the director not later than one year after the date of employment or designation.

(d) In addition to the requirements of division (B)(4)(a) of this section, any administrator employed or designated as such on or after the effective date of this section, as amended, shall show evidence of at least one of the following not later than one year after the date of employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(v) An administrator's credential as approved by the department of job and family services.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

(i) A graduate of a two-year vocational child-care training program approved by the state board of education;

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to

high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori internationale. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

~~(7) The administrator of each child day-care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to any person other than a parent, custodian, or guardian of a child who attends the center.~~

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid ~~and, one staff member who has completed a~~ course in prevention, recognition, and management of communicable diseases which is approved by the state department of health, and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, ~~except as otherwise provided in division (B)(7) of this section and~~ except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for

those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number and type of inservice training hours required under division (B)(6) of this section; ~~or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section;~~ however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than ~~one and one-half~~ two hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(4) Standards for a program of activities, and for play equipment,

materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing~~, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

~~(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;~~

~~(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child~~

is receiving child care or publicly funded child care in the type A home;

~~(18)~~(17) Standards for the maximum number of children per child-care staff member;

~~(19)~~(18) Requirements for the amount of usable indoor floor space for each child;

~~(20)~~(19) Requirements for safe outdoor play space;

~~(21)~~(20) Qualifications and training requirements for administrators and for child-care staff members;

~~(22)~~(21) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

~~(23)~~(22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

~~(24)~~(23) Any other procedures and standards necessary to carry out this chapter.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include all of the following:

(a) Procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(i) Persons who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(ii) Persons who provide child care for eligible children all of whom are the children of the same caretaker parent;

(b) Procedures for the director to ensure, that type B homes that receive a limited certification provide child care to children in a safe and sanitary manner;

(c) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code.

With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child care during the provisional period. Except as

otherwise provided in division (G)(1) of this section, section 5104.013 or 5104.09 of the Revised Code, or division (A)(2) of section 5104.11 of the Revised Code, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a)(i) of this section or a person described in division (G)(1)(a)(ii) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health and safety requirements are being met in the home. Except as otherwise provided in section 5104.013 or 5104.09 or in division (A)(2) of section 5104.11 of the Revised Code, if such verification is provided, the county shall waive any inspection required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of

authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

(n) Qualification and training requirements for authorized providers;

(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;

(q) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(6) Standards for the safe transport of children when under the care of in-home aides;

(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;

(9) Procedures for record keeping and evaluation;

(10) Procedures for receiving, recording, and responding to complaints;

(11) Qualifications and training requirements for in-home aides;

(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;

(13) Any other procedures and standards necessary to carry out this chapter.

(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

(J)(1) The director of job and family services shall do all of the following:

(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;

(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;

(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.

(2) The director shall do all of the following:

(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;

(c) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date.

(3) The county director of job and family services shall provide or make available in either paper or electronic form to each authorized provider and in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each authorized provider and in-home aide.

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(5) The director of job and family services ~~shall recommend standards~~ may adopt rules pursuant to Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter and that violate any provision of this chapter. Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance. The ~~standards~~ sanctions imposed shall be based on the scope and severity of the violations. ~~The director shall provide copies of the recommendations to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public~~

The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code.

(6) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that establish standards for the training of individuals whom any county department of job and family services

employs, with whom any county department of job and family services contracts, or with whom the director of job and family services contracts, to inspect or investigate type B family day-care homes pursuant to section 5104.11 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division.

(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every four years thereafter ~~at the time of a license renewal~~. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression

sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after ~~the effective date of this amendment~~ August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal

records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of 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 applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section

109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

- (a) Any owner, licensee, or administrator of a child day-care center;
- (b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter ~~at the time of a license renewal~~. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C.

671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center or type A family day-care home and a county director of job and family services shall not certify a type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of

criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of 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 person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the department.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and a copy of the rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. ~~The director shall mail application forms for renewal of license at least one hundred twenty days prior to the date of expiration of the license, and the application for renewal shall be filed with the director at least sixty days before the date of expiration. Fees~~ copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for ~~or renewal of~~ a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the center or type A home complies with ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. When, after investigation and inspection, the director is satisfied that ~~Chapter 5104. of the Revised~~

~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ it are complied with, subject to division (G) of this section, a provisional license shall be issued as soon as practicable in such form and manner as prescribed by the director. The provisional license shall be valid for ~~six~~ twelve months from the date of issuance unless revoked.

(C) The director shall investigate and inspect the center or type A home at least once during operation under the provisional license. If after the investigation and inspection the director determines that the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter are met, subject to division (G) of this section, the director shall issue a license to ~~be effective for two years from the date of issuance of the provisional license~~ the center or home.

(D) ~~Upon the filing of an application for renewal of a license by the center or type A home, the director shall investigate and inspect the center or type A home. If the director determines that the requirements of Chapter 5104. and rules adopted pursuant to Chapter 5104. of the Revised Code are met, subject to division (G) of this section, the director shall renew the license to be effective for two years from the expiration date of the previous license.~~

(E) The license or provisional license shall state the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. ~~After July 1, 1987, the~~ The license or provisional license or license shall include thereon, in accordance with section 5104.011 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center or type A home has violated a provision of ~~Chapter 5104.,~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license or provisional license is the maximum number of children in each age category that may be cared for in the center or type A home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the current license or provisional license to reflect a change in an administrator, if the administrator meets the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code, or a change in license capacity for any age category of children as determined by the director of job and family services.

~~(F)~~(E) If the director revokes a the license ~~or refuses to renew a license~~ to ~~of~~ a center or a type A home, the director shall not issue a another license to the owner of the center or type A home ~~within two~~ until five years have elapsed from the date of the ~~revocation of a license or refusal to renew a~~ license is revoked. If

If the director denies an application for a license, the director shall not accept another application from the applicant until five years have elapsed from the date the application is denied.

~~(F)~~ If during the application for licensure ~~or renewal of licensure~~ process the director determines that the license of the owner has been revoked ~~or renewal of licensure has been denied~~, the investigation of the center or type A home shall cease, ~~and shall~~. This action does not constitute denial of the application and may not be appealed under division (G) of this section. All

~~(G)~~ All actions of the director with respect to licensing centers or type A homes, ~~renewing a license, refusal to license or renew a license,~~ and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license ~~is not renewed or~~ is revoked may appeal in accordance with section 119.12 of the Revised Code.

~~(G)~~(H) In no case shall the director issue a license or provisional license ~~or license, or renew a license,~~ under this section for a type A home or center if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant previously had been certified as a type B family day-care home, that the county department revoked that certification, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center or type A home that otherwise is imposed under this section, or any authority of the department to inspect a center or type A home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section 5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

~~(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the~~

violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. The department's commencement of an action to revoke the license is sufficient notice that the correction has not been made, and no other notice regarding the correction is required.

~~(D)~~ The department may deny an application or revoke a license, ~~or refuse to renew a license~~ of a center or type A home, if the applicant knowingly makes a false statement on the application, the center or home does not comply with the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, or the applicant or owner has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

~~(E)~~(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, the department may issue an order of denial to the applicant or an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any such an order of revocation, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

~~(F)~~(E) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

~~(G)~~(F) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued ~~or renewed~~ pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter.

~~(H)~~(G) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the

prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.05. (A) The director of job and family services shall issue a license or provisional license ~~or license or renew a license~~ for the operation of a child day-care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child day-care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire

prevention and fire safety in a child day-care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of job and family services shall issue a license or provisional license or license or renew a license for the operation of a type A family day-care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family day-care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of job and family services in cooperation with the director of health pursuant to section 3701.80 of the Revised Code regarding meal preparation and meal service in the home. The director of job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of job and family services in cooperation with the board of building standards regarding safety and sanitation pursuant to section 3781.10 of the Revised Code.

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable intervals thereafter, the~~ The department of job and family services shall ~~publish~~ prepare a guide describing the state statutes and rules governing the certification of type B family day-care homes. The department ~~shall distribute~~ may publish the guide ~~to county departments of job and family services in sufficient number that a copy is available to each~~ electronically or otherwise and shall do so in a manner that the guide is accessible to the public, including type B home provider providers.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly

funded child care.

(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(d) With regard to the voluntary child day-care center quality-rating program established pursuant to division (C)(3)(d) of this section, do both of the following:

(i) Establish enhanced reimbursement ceilings for child day-care centers that participate in the program and maintain quality ratings under the program;

(ii) Weigh any reduction in reimbursement ceilings more heavily against child day-care centers that do not participate in the program or do not maintain quality ratings under the program.

(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the ~~county~~ department of job and family services. ~~A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time.~~ All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state, ~~county~~, or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state, ~~county~~, or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the ~~lowest~~ lower of the rate customarily charged by the provider for children enrolled for child care; or the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, ~~or a rate the county department negotiates with the provider;~~

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the ~~county~~ department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make

eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the ~~county department of job and family services~~, the state department of job and family services; or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates ~~for payment~~ that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment ~~for reimbursement~~ in accordance with rules that the director of job and family services shall adopt. Only providers may receive ~~reimbursement~~ payment for certificates ~~for payment~~. The value of the certificate ~~for payment~~ shall be based on the ~~lowest~~ lower of the rate customarily charged by the provider; ~~the reimbursement ceiling~~ or the rate of payment established pursuant to section 5104.30 of the Revised Code; ~~or a rate the county department negotiates with the provider~~. The county department may provide the certificates ~~for payment~~ to the individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to

contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates ~~for payment~~ to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child ~~day-care~~ care to the child of an individual given certificates ~~for payment~~, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

Sec. 5104.34. (A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child care, may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child care provider or a child care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the county department within a period of time

that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child care and to make eligibility determinations. The county department, child care provider, and child care resource and referral service organization shall make each determination of eligibility for publicly funded child care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2) All eligibility determinations for publicly funded child care shall be made in accordance with rules adopted pursuant to division (A) of section 5104.38 of the Revised Code and, if a county department of job and family services specifies, pursuant to rules adopted under division (B) of that section, a maximum amount of income a family may have to be eligible for publicly funded child care, the income maximum specified by the county department. Publicly funded child care may be provided only to eligible infants, toddlers, preschool children, and school children under age thirteen. For an applicant to be eligible for publicly funded child care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child care. This restriction does not apply to families whose children are eligible for protective child care.

Subject to available funds, a county department of job and family services shall allow a family to receive publicly funded child care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child care is subject to available funds unless the family is receiving child care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county

department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child care at any time during the immediately following twelve-month period that both of the following apply:

- (a) The assistance group requires child care due to employment;
- (b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

(B) To the extent permitted by federal law, a county department of job and family services may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. Each county department shall make protective child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If a county department of job and family services determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the county department may establish a waiting list. A county department may establish separate waiting lists within the waiting list based on income. When resources become available to provide publicly funded child care to families on the waiting list, a county department that establishes a waiting list shall assess the needs of the next family scheduled to receive publicly funded child care. If the assessment demonstrates that the family continues to need and is eligible for publicly funded child care, the county department shall offer it to the family. If the county department determines that the family is no longer eligible or no longer needs publicly funded child care, the county department shall remove

the family from the waiting list.

(E) A caretaker parent shall not receive full-time publicly funded child care from more than one child care provider per child during any period.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code if a caretaker parent reports changes in income, family size, or both.

(B) Division (A) of this section does not apply ~~in either of the following circumstances:~~

~~(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;~~

~~(2) The if the~~ recipient of the publicly funded child care ceases to be eligible for publicly funded child care.

Sec. 5104.35. (A) ~~The~~ Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services;

~~(4) Pay to a child day care center, type A family day care home, certified type B family day care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider for child care services, the amount provided for in~~

~~division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the provider is paid.~~

~~(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child care.~~

(B) The A county department of job and family services may ~~do any of the following:~~

~~(1) To, to~~ the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care;

~~(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;~~

~~(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;~~

~~(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.~~

Sec. 5104.37. The department of job and family services ~~and a county department of job and family services~~ may withhold any money due, and recover through any appropriate method any money erroneously paid, under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care. The rules shall specify the maximum

amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed two hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) Procedures under which a county department of job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child care that is higher than the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) ~~A formula based upon a percentage of the county's total expenditures for publicly funded child care~~ for determining the ~~maximum~~ amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department ~~may to~~ use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division ~~(H)(1)~~(JJ)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;

(N) Any other rules necessary to carry out sections 5104.30 to 5104.39 5104.43 of the Revised Code.

Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures ~~of county departments of job and family services~~ for publicly funded child care to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department of job and family services, with the assistance of the office of budget and management and the child care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures ~~of county departments~~ for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department determines that the anticipated future expenditures ~~of the county departments~~ will exceed the available federal and state funds for publicly funded child care and the department reimburses the county departments in accordance with rules adopted under section 5104.42 of the Revised Code will exceed the available federal and state funds, the department shall promptly notify the county departments of job and family services and, before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify

both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child care;

(2) Instructions and procedures to be used by the county departments regarding eligibility determinations.

(B) The order may do any or all of the following:

(1) Suspend enrollment of all new participants in any program of publicly funded child care;

(2) Limit enrollment of new participants to those with incomes at or below a specified percentage of the federal poverty line;

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line;

(4) Change the schedule of fees paid by eligible caretaker parents that has been established pursuant to section 5104.38 of the Revised Code;

(5) Change the rate of payment for providers of publicly funded child care that has been established pursuant to section 5104.30 of the Revised Code.

(C) Each county department shall comply with the order no later than thirty days after it is issued. ~~If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child care are used, the state department shall provide sufficient funds to the county departments for publicly funded child care to enable each county department to pay for all publicly funded child care that was provided by providers pursuant to contract prior to the date that the county department received notice under this section and the state department implemented in that county the priorities.~~

(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future expenditures ~~of the county departments~~ for publicly funded child care, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

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

(1) Conduct a quarterly evaluation of the program of publicly funded

child care that is operated pursuant to sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.42. (A) The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. ~~The rules may provide that the department of job and family services will reimburse county departments of job and family services for payments made to providers of publicly funded child care, make direct payments to providers, or establish another system for the payment of publicly funded child care.~~

~~Alternately, the (B) The~~ director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating ~~among the county departments~~ the state and federal funds appropriated for all publicly funded child care services. ~~If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.~~

~~The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.~~

Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. ~~All expenditures by a county department for publicly funded child care shall be made from the public assistance fund.~~

Sec. 5104.99. (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which

a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (B) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a

licensee of a center or type A home, the conviction shall constitute grounds for denial; or revocation, or refusal to renew of an application for licensure pursuant to section 5104.04 of the Revised Code. If the offender is a person eighteen years of age or older residing in a center or type A home or is an employee of a center or a type A home and if the licensee had knowledge of, and acquiesced in, the commission of the offense, the conviction shall constitute grounds for denial; or revocation, or refusal to renew of an application for licensure pursuant to section 5104.04 of the Revised Code.

(C) Whoever violates division (C) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 5111.011. (A) The director of job and family services shall adopt rules establishing eligibility requirements for the medicaid program. The rules shall be adopted pursuant to section 111.15 of the Revised Code and shall be consistent with federal and state law. The rules shall include rules that do all of the following:

(1) Establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medicaid;

(2) Define the term "resources" as used in division (A)(1) of this section;

(3) Specify the number of months that is to be used for the purpose of the term "look-back date" used in section 5111.0116 of the Revised Code;

(4) Establish processes to be used to determine both of the following:

(a) The date an institutionalized individual's ineligibility for services under section 5111.0116 of the Revised Code is to begin;

(b) The number of months an institutionalized individual's ineligibility for such services is to continue.

(5) ~~Establish exceptions to~~ For the purpose of division (C) of section 5111.0116 of the Revised Code, establish procedures for granting waivers of all or a portion of the period of ineligibility that an institutionalized individual would otherwise be subject to under that section 5111.0116 of the Revised Code and additional reasons for which such waivers may be granted;

(6) Define the term "other medicaid-funded long-term care services" as used in sections 5111.0117 and 5111.0118 of the Revised Code;

(7) For the purpose of division (C)(2)(c) of section 5111.0117 of the Revised Code, establish the process to determine whether the child of an aged, blind, or disabled individual is financially dependent on the individual for housing.

(B) Notwithstanding any provision of state law, including statutes,

administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under division (A)(1) of this section shall be used to determine eligibility for medicaid.

Sec. 5111.012. ~~The~~ (A) Except as provided in division (B) of this section, the county department of job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of job and family services elects to enter into agreements with county departments of job and family services pursuant to division (B) of section 5101.47 of the Revised Code, a county department of job and family services shall establish eligibility for medical assistance only if authorized to do so under such an agreement.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the healthy start program:

(1) Establish a short application form for the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start program, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the

following:

(a) Distribute the application form for the program to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private agencies or entities selected by the department of job and family services that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the program in completing the application form and of making determinations at that location of eligibility for the program.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the program can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of job and family services whose rate of enrollment of potentially eligible enrollees in the program is below acceptable levels established under division (B)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following to the extent permitted by federal law:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from

public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

~~(D) The director of job and family services shall do one or both of the following:~~

~~(1) To the extent that federal funds are provided for such assistance, adopt a plan for granting presumptive eligibility for pregnant women applying for healthy start;~~

~~(2) To the extent permitted by federal medicaid regulations, adopt a plan for making same day determinations of eligibility for pregnant women applying for healthy start.~~

(E) A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program at all of those locations.

~~(F)~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.0112. (A) The director of job and family services shall institute a cost-sharing program under the medicaid program. In instituting the cost-sharing program, the director shall comply with federal law. ~~In the case of an individual participating in the children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code, the cost sharing program shall be consistent with sections 5101.5213 and 5101.5214 of the Revised Code if the children's buy in program is a component of the medicaid program.~~ The cost-sharing program shall establish a copayment requirement for at least dental services, vision services, nonemergency emergency department services, and prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

(C) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (B)(3) of this section does not apply.

(D) The department of job and family services may work with a state agency that is administering, pursuant to a contract entered into under section 5111.91 of the Revised Code, one or more components of the medicaid program or one or more aspects of a component as necessary for the state agency to apply the cost-sharing program to the components or aspects of the medicaid program that the state agency administers.

Sec. 5111.0116. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative

agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section 5111.011 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(6) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(7) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid-covered nursing facility services.

(8) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted under section 5111.011 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section 5111.011

of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual. An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal. Waivers shall be granted in accordance with rules adopted under section 5111.011 of the Revised Code.

(D) To secure compliance with this section, the director of job and family services may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5111.0122. As used in this section, "maintenance of effort requirement" means the requirement established by section 1902(gg) of the "Social Security Act," 124 Stat. 275 (2010), 42 U.S.C. 1396a(gg), as amended, regarding medicaid eligibility standards, methodologies, and procedures.

Except to the extent, if any, otherwise authorized by the United States secretary of health and human services, the department of job and family services shall comply with the maintenance of effort requirement while the requirement is in effect.

Sec. 5111.0123. (A) Subject to division (B) of this section, the director of job and family services shall adopt rules under sections 5111.011 and 5111.85 of the Revised Code to reduce the complexity of the eligibility determination processes for the medicaid program caused by the different income and resource standards for the numerous medicaid eligibility categories.

(B) In implementing division (A) of this section, both of the following

apply:

(1) Before implementing a revision to an eligibility determination process, the director shall obtain, to the extent necessary, the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant.

(2) The director shall comply with section 5111.0122 of the Revised Code.

Sec. 5111.0124. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for pregnant women option" means the option available under 42 U.S.C. 1396r-1 to make ambulatory prenatal care available to pregnant women under the medicaid program during presumptive eligibility periods.

"Qualified provider" has the same meaning as in 42 U.S.C. 1396r-1(b)(2).

(B) The director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services to implement the presumptive eligibility for pregnant women option. The director shall include in the medicaid state plan amendment a request to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers, to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director may include in the medicaid state plan amendment a request to authorize other types of providers that are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.0125. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the

Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for children option" means the option available under 42 U.S.C. 1396r-1a to make medical assistance with respect to health care items and services available to children under the medicaid program during presumptive eligibility periods.

"Qualified entity" has the same meaning as in 42 U.S.C. 1396r-1a(b)(3).

(B) The director of job and family services shall retain the presumptive eligibility for children option that was included in the state medicaid plan on the effective date of this section. The director shall submit a medicaid state plan amendment to the United States secretary of health and human services to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities, to serve as qualified entities for purposes of the presumptive eligibility for children option. The director may include in the medicaid state plan amendment a request to authorize other types of entities that are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities to serve as qualified entities for purposes of the presumptive eligibility for children option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.021. Under the medicaid program:

(A) Except as otherwise ~~permitted~~ required by federal statute or regulation and ~~at the department's discretion~~, reimbursement by the department of job and family services ~~to~~ shall not reimburse a medical provider for any medical ~~service~~ assistance rendered under the program shall not exceed an amount that exceeds the following:

(1) If the provider is a hospital, nursing facility, or intermediate care facility for the mentally retarded, the limits established under Subpart C of 42 C.F.R. Part 447;

(2) If the provider is other than a provider described in division (A)(1) of this section, the authorized reimbursement ~~level~~ limits for the same service under the medicare program established under Title XVIII of the

"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has ~~a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is~~ its community mental health services certified by the department of mental health under section 5119.611 of the Revised Code or by the department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

(B) The state medicaid plan ~~shall~~ may include provision of the following mental health services when provided by community mental

health agencies or facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

~~(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities.~~

~~(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section.~~

~~(E) Not later than July 21, 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~

~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health agencies or facilities for providing community mental health services included in the state medicaid plan pursuant to section 5111.023 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program

pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.0212. As necessary to comply with section 1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law that requires public notice of proposed changes to reimbursement rates for medical assistance provided under the medicaid program, the director of job and family services shall give public notice in the register of Ohio of any change to a method or standard used to determine the medicaid reimbursement rate for medical assistance.

Sec. 5111.0213. (A) As used in this section:

(1) "Aide services" means all of the following:

(a) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(b) Home care attendant services available under a home and community-based services medicaid waiver component;

(c) Personal care aide services available under a home and community-based services medicaid waiver component.

(2) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(3) "Independent provider" means an individual who personally provides aide services or nursing services and is not employed by, under contract with, or affiliated with another entity that provides those services.

(4) "Nursing services" means all of the following:

(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(b) Private duty nursing services as defined in 42 C.F.R. 440.80;

(c) Nursing services available under a home and community-based services medicaid waiver component.

(B) The department of job and family services shall do both of the following:

(1) Effective October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011;

(2) Effective October 1, 2011, pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider;

(3) Not sooner than July 1, 2012, adjust the medicaid reimbursement rates for aide services and nursing services in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit.

(C) The department shall strive to have the adjustment made under division (B)(3) of this section go into effect on July 1, 2012. The reductions made under divisions (B)(1) and (2) of this section shall remain in effect until the adjustment made under division (B)(3) of this section goes into effect.

(D) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.

Sec. 5111.0214. The department of job and family services shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under section 2702 of the "Patient Protection and Affordable Care Act," 124 Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.

Sec. 5111.0215. (A) The department of job and family services may establish a program under which it provides incentive payments, as authorized by the "Health Information Technology for Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall reconsider the

determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.031. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is issued on or after ~~the effective date of this section~~ September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

The suspension shall continue in effect until the proceedings in the

criminal case are completed through ~~conviction~~, dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded. ~~Pursuant~~

Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (C) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid reimbursement applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for reimbursement for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

(a) Furnishing or billing for medical care, services, or supplies under the medicaid program;

(b) Participating in the performance of management or administrative services relating to furnishing medical care, services, or supplies under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute one of the offenses specified in division (D) of section 5111.034 of the Revised Code.

(F) Not later than five days after suspending a provider agreement under division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through ~~conviction~~, dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) A Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents