

AN ACT

To amend sections 1.61, 303.01, 303.21, 519.01, 519.21, 901.511, 903.10, 929.01, 1309.102, 1311.55, 1729.01, 3781.06, 5501.50, and 5713.30 of the Revised Code to include algaculture in the laws governing agriculture, in the definition of "agriculture" for purposes of the laws governing county and township zoning, and in the laws governing current agricultural use valuation; to exclude from zoning restrictions the production from certain feedstocks of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas; to include that production in the laws governing current agricultural use valuation; to provide for the establishment of best management practices for that production under the Concentrated Animal Feeding Facilities Law; to establish the Legislative Task Force to Study Anaerobic Digesters for Agricultural Use and Application in the State; and to declare an emergency.

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

SECTION 1. That sections 1.61, 303.01, 303.21, 519.01, 519.21, 901.511, 903.10, 929.01, 1309.102, 1311.55, 1729.01, 3781.06, 5501.50, and 5713.30 of the Revised Code be amended to read as follows:

Sec. 1.61. As used in any statute except section 303.01 or 519.01 of the Revised Code, "agriculture" includes farming; ranching; aquaculture; algaculture meaning the farming of algae; apiculture and related apicultural activities, production of honey, beeswax, honeycomb, and other related products; horticulture; viticulture, winemaking, and related activities; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops,

tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production; and any additions or modifications to the foregoing made by the director of agriculture by rule adopted in accordance with Chapter 119. of the Revised Code.

Sec. 303.01. As used in sections 303.02 to 303.25 of the Revised Code, "agriculture" includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

Sec. 303.21. (A) Except as otherwise provided in division (B) of this section, sections 303.01 to 303.25 of the Revised Code do not confer any power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no zoning certificate shall be required for any such building or structure.

(B) A county zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the

lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 303.19 of the Revised Code.

Division (B) of this section confers no power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any board of county commissioners, county rural zoning commission, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a:

(1) A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of county commissioners, as provided in section 303.02 of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

Sec. 519.01. As used in ~~section~~ sections 519.02 to 519.25 of the Revised Code, "agriculture" includes farming; ranching; algaculture meaning the

farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

Sec. 519.21. (A) Except as otherwise provided in division (B) of this section, sections 519.02 to 519.25 of the Revised Code confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a:

(1) A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

Sec. 901.511. (A) As used in this section:

(1) "Agricultural product" means any of the following items that is produced for testing or research in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state, or local governmental agency or that is produced for personal, commercial, pharmaceutical, or educational purposes: field crop or field crop product; timber or timber product; forestry product; livestock or livestock product; meat or meat product; milk or dairy product; poultry or poultry product; equine animal; wool; fruit or vegetable

crop; aquacultural product; algacultural product; horticultural crop, including plant materials grown in a greenhouse, nursery stock grown inside or outside of a container, ornamental grass, turf grass, ornamental trees, ornamental shrubs, or flowers; sod; mushrooms; viticultural product; apicultural product; tobacco; pasture; wild animal or domestic deer, as "wild animal" and "domestic deer" are defined in section 1531.01 of the Revised Code; or any combination of those items.

(2) "Algacultural product" means algal paste, algal powder, or dried algae that is comprised primarily of algal biomass.

(3) "Equipment" means any implement, machinery, real or personal property, building, or structure that is used in the production, growing, harvesting, or housing of any agricultural product. "Equipment" also includes any laboratory, research, product, samples, supplies, or fixed equipment that is used to test, develop, or analyze the process of producing, growing, or maintaining any agricultural product.

~~(3)~~(4) "Material support or resources" means currency, payment instruments, other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

~~(4)~~(5) "Payment instrument" means a check, draft, money order, traveler's check, cashier's check, teller's check, or other instrument or order for the transmission or payment of money regardless of whether the item in question is negotiable.

~~(5)~~(6) "Specified offense" means either of the following:

(a) A violation of section 2909.02, 2909.03, 2909.05, 2909.06, 2909.07, 2911.13, 2911.21, 2913.02, 2913.04, or 2913.42 of the Revised Code;

(b) An attempt to commit, complicity in committing, or a conspiracy to commit an offense listed in division (A)(5)(a) of this section.

(B) No person shall commit a specified offense involving any agricultural product or equipment with the intent to do any of the following:

(1) Intimidate or coerce a civilian population;

(2) Influence the policy of any government by intimidation or coercion;

(3) Affect the conduct of any government;

(4) Interrupt or interfere with agricultural production, agricultural research, or equipment for purposes of disrupting or influencing, through intimidation or other means, consumer confidence or agricultural production methods.

Division (B) of this section does not apply to the practice of veterinary

medicine by a person who has been issued a valid license, temporary permit, or registration certificate to practice veterinary medicine under Chapter 4741. of the Revised Code. As used in this division, "practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code.

(C) No person shall raise, solicit, collect, donate, or provide any material support or resources with the purpose that the material support or resources will be used in whole or in part to plan, prepare, carry out, or aid in either a violation of division (B) of this section or in the concealment of, or an escape from, a violation of that division.

(D)(1) In addition to the penalties established in section 901.99 of the Revised Code for a violation of this section, the court may require any person who violates this section to pay the victim of the offense an amount up to triple the value of the agricultural product or equipment that was the subject of the violation.

(2) In ordering restitution under division (D)(1) of this section, the court shall consider as part of the value of the agricultural product or equipment the market value of the agricultural product or equipment prior to the violation and the production, research, testing, replacement, and development costs directly related to the agricultural product or equipment that was the subject of the violation.

(E) The enactment of this section is not intended to require the prosecution exclusively under this section of an act, series of acts, or course of behavior that could be prosecuted either under this section or under another section of the Revised Code. One or more acts, series of acts, or courses of behavior that may be prosecuted either under this section or under another section of the Revised Code may be prosecuted under this section, the other section, or both sections.

Sec. 903.10. The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(A) Establish all of the following concerning permits to install and permits to operate:

(1) A description of what constitutes a modification of a concentrated animal feeding facility;

(2) A description of what constitutes a major operational change at a concentrated animal feeding facility;

(3) The amount of the fee that must be submitted with each permit application and each application for a permit modification;

(4) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;

(5) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;

(6) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;

(7) Information that must be included in an application for approval of a major operational change at a concentrated animal feeding facility;

(8) Any additional information that must be included with a permit application;

(9) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;

(10) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility;

(11) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;

(12) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility;

(13) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;

(14) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.

(B) Establish all of the following for the purposes of review compliance certificates issued under section 903.04 of the Revised Code:

(1) The form of a certificate;

(2) Criteria for what constitutes a significant capital expenditure under division (D) of that section;

(3) Deadlines and procedures for submitting information under division (E)(2) of that section.

(C) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:

(1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (C)(1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.

(2) Disposal of dead livestock;

(3) Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas as those terms are defined in section 5713.30 of the Revised Code;

(4) Any other activity that the director considers appropriate.

Best management practices established in rules adopted under division (C) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code. The rules adopted under division (C) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.

(D) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:

(1) The information to be included in an insect and rodent control plan;

(2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;

(3) Criteria for determining compliance with or violation of an insect and rodent control plan;

(4) Procedures and standards for monitoring insect and rodent control plans;

(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;

(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (D)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;

(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;

(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.

(E) Establish all of the following concerning livestock manager certifications required under section 903.07 of the Revised Code:

(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;

(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement.

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;

(5) The volume of manure that must be transported and land applied annually or the volume of manure that must be bought, sold, or land applied annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;

(6) Requirements governing the management and handling of manure, including the land application of manure;

(7) Requirements governing the keeping of records regarding the handling of manure, including the land application of manure;

(8) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.

(F) Establish all of the following concerning NPDES permits:

(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code;

(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;

(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;

(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;

(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;

(6) The amount of the fee that must be submitted with an application for a permit;

(7) Procedures for processing permit applications, including public notice and participation requirements;

(8) Procedures for notifying the United States environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;

(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;

(10) Procedures for the transfer of permits to new owners or operators;

(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;

(12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.

The rules adopted under division (F) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.

(G) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (F)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, and NPDES permits consistent with section 903.09 of the Revised Code, including a definition of what constitutes significant public interest for the purposes of divisions (A) and (F) of section 903.09 of the Revised Code and procedures for public

meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.

(H) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install, permit to operate, or review compliance certificate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(I) Establish procedures for the protection of trade secrets from public disclosure. The procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (F) of this section.

(J) Establish any other provisions necessary to administer and enforce this chapter.

Sec. 929.01. As used in this chapter:

(A) "Agricultural production" means commercial aquaculture, algaculture meaning the farming of algae, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices, provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five per cent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed under section 929.02 of the Revised Code.

(B) "Withdrawal from an agricultural district" includes the explicit removal of land from an agricultural district, conversion of land in an agricultural district to use for purposes other than agricultural production, and withdrawal of land from a land retirement or conservation program to use for purposes other than agricultural production. Withdrawal from an agricultural district does not include land described in division (A)(4) of section 5713.30 of the Revised Code.

(C) "Conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

Sec. 1309.102. (A) As used in this chapter, unless the context requires otherwise:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2)(a) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

(b) "Account" includes health-care insurance receivables.

(c) "Account" does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person who is obligated on an account, chattel paper, or general intangible. "Account debtor" does not include a person who is obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(a) Authenticated by a secured party;

(b) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the

record; and

(c) Identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(a) That secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation.

(b) That is created by statute in favor of a person who:

(i) In the ordinary course of business, furnished goods or services to a debtor in connection with the debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(c) Whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(a) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(b) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(a) To sign; or

(b) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. "Bank" includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11)(a) "Chattel paper" means a record that evidences both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific

goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods.

As used in division (A)(11)(a) of this section, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.

(b) If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(c) "Chattel paper" does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(12) "Collateral" means the property subject to a security interest or agricultural lien, including:

(a) Proceeds to which a security interest attaches;

(b) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(c) Goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(a) The claimant is an organization; or

(b) The claimant is an individual, and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(a) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(b) Traded on a foreign commodity board of trade, exchange, or market and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(a) Is registered as a futures commission merchant under the federal commodities laws; or

(b) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

(18) "Communicate" means:

(a) To send a written or other tangible record;

(b) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(c) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to whom goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(a) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(b) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery.

(c) The goods are not consumer goods immediately before delivery; and

(d) The transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(a) An individual incurs an obligation primarily for personal, family, or household purposes; and

(b) A security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which: (a) an individual incurs an obligation primarily for personal, family, or household purposes, (b) a security interest secures the obligation, and (c) the collateral is held or acquired primarily for personal, family, or household purposes. "Consumer transaction" includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement that:

(a) Identifies, by its file number, the initial financing statement to which it relates; and

(b) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(a) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(b) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(c) A consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank but does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in division (B) of section 1307.201 of the Revised Code.

(31) "Electronic chattel paper" means chattel paper evidenced by a record consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. "Encumbrance" includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and that are:

(a) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; ~~and~~

(ii) Aquatic goods produced in aquacultural operations;

(iii) Algacultural products as defined in section 901.511 of the Revised Code that are produced as a result of algaculture meaning the farming of algae.

(b) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(c) Supplies used or produced in a farming operation; or

(d) Products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement under division (A) of section 1309.519 of the Revised Code.

(37) "Filing office" means an office designated in section 1309.501 of the Revised Code as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted under section 1309.526 of the Revised Code.

(39) "Financing statement" means a record composed of an initial financing statement and any filed record or records relating to the initial financing statement. For the purposes of this chapter, financing statements filed for recording with the secretary of state shall not be required to include social security or employer identification numbers.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying divisions (A) and (B) of section 1309.502 of the Revised Code. "Fixture filing" includes the filing of a financing statement covering goods of a transmitting utility that are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. "General intangible" includes payment intangibles and software.

(43) "Good faith" has the same meaning as in section 1301.201 of the Revised Code.

(44)(a) "Goods" means all things that are movable when a security interest attaches. "Goods" includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes.

(b) "Goods" also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.

(c) "Goods" does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. "Goods" does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipal corporation, or other unit of the government of the United States, a state, or a foreign country. "Governmental unit" includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health-care goods or services provided.

(47)(a) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment.

(b) "Instrument" does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, that:

(a) Are leased by a person as lessor;

(b) Are held by a person for sale or lease or to be furnished under a contract of service;

(c) Are furnished by a person under a contract of service; or

(d) Consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, a security entitlement, a securities account, a commodity contract, or a commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. "Letter-of-credit right"

does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(a) A creditor who has acquired a lien on the property involved by attachment, levy or the like;

(b) An assignee for benefit of creditors from the time of assignment;

(c) A trustee in bankruptcy from the date of the filing of the petition; or

(d) A receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. "Manufactured home" includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(a) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(b) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under division (D) of section 1309.203 of the Revised Code by a security agreement previously entered into by another person.

(57)(a) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee.

(b) "New value" does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59)(a) "Obligor" means a person who, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of

the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation.

(b) "Obligor" does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor," except as used in division (C) of section 1309.310 of the Revised Code, means a person who, as debtor, entered into a security agreement to which a new debtor has become bound under division (D) of section 1309.203 of the Revised Code.

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

- (a) The spouse of the individual;
- (b) A brother, brother-in-law, sister, or sister-in-law of the individual;
- (c) An ancestor or lineal descendant of the individual or the individual's spouse; or
- (d) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

- (a) A person directly or indirectly controlling, controlled by, or under common control with the organization;
- (b) An officer or director of, or a person performing similar functions with respect to, the organization;
- (c) An officer or director of, or a person performing similar functions with respect to, a person described in division (A)(63)(a) of this section;
- (d) The spouse of an individual described in division (A)(63)(a), (b), or (c) of this section; or
- (e) An individual who is related by blood or marriage to an individual described in division (A)(63)(a), (b), (c), or (d) of this section and shares the same home with the individual.

(64) "Proceeds," except as used in division (B) of section 1309.609 of the Revised Code, means the following property:

- (a) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
- (b) Whatever is collected on, or distributed on account of, collateral;
- (c) Rights arising out of collateral;
- (d) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to the collateral; or
- (e) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or

nonconformity of, defects or infringement of rights in, or damage to the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 1309.620, 1309.621, and 1309.622 of the Revised Code.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(a) Debt securities are issued;

(b) All or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(c) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(a) The obligor's obligation is secondary; or

(b) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(a) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is

outstanding;

(b) A person that holds an agricultural lien;

(c) A consignor;

(d) A person to whom accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(e) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(f) A person who holds a security interest arising under section 1302.42, 1302.49, 1302.85, 1304.20, 1305.18, or 1310.54 of the Revised Code.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means:

(a) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(b) To cause the record or notification to be received within the time that it would have been received if properly sent under division (A)(74)(a) of this section.

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. "Software" does not include a computer program that is included in the definition of goods.

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

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement that:

(a) Identifies, by its file number, the initial financing statement to which it relates; and

(b) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the

business of:

- (a) Operating a railroad, subway, street railway, or trolley bus;
- (b) Transmitting communications electrically, electromagnetically, or by light;
- (c) Transmitting goods by pipeline or sewer; or
- (d) Transmitting or producing and transmitting electricity, steam, gas, or water.

(B) Other definitions applying to this chapter are:

(1) "Applicant" has the same meaning as in section 1305.01 of the Revised Code.

(2) "Beneficiary" has the same meaning as in section 1305.01 of the Revised Code.

(3) "Broker" has the same meaning as in section 1308.01 of the Revised Code.

(4) "Certificated security" has the same meaning as in section 1308.01 of the Revised Code.

(5) "Check" has the same meaning as in section 1303.03 of the Revised Code.

(6) "Clearing corporation" has the same meaning as in section 1308.01 of the Revised Code.

(7) "Contract for sale" has the same meaning as in section 1302.01 of the Revised Code.

(8) "Control" with respect to a document of title, has the same meaning as in section 1307.106 of the Revised Code.

(9) "Customer" has the same meaning as in section 1304.01 of the Revised Code.

(10) "Entitlement holder" has the same meaning as in section 1308.01 of the Revised Code.

(11) "Financial asset" has the same meaning as in section 1308.01 of the Revised Code.

(12) "Holder in due course" has the same meaning as in section 1303.32 of the Revised Code.

(13) "Issuer," with respect to a letter of credit or letter-of-credit right, has the same meaning as in section 1305.01 of the Revised Code.

(14) "Issuer," with respect to a security, has the same meaning as in section 1308.08 of the Revised Code.

(15) "Issuer," with respect to a document of title, has the same meaning as in section 1307.102 of the Revised Code.

(16) "Lease," "lease agreement," "lease contract," "leasehold interest," "lessee," "lessee in ordinary course of business," "lessor," and "lessor's

residual interest" have the same meanings as in section 1310.01 of the Revised Code.

(17) "Letter of credit" has the same meaning as in section 1305.01 of the Revised Code.

(18) "Merchant" has the same meaning as in section 1302.01 of the Revised Code.

(19) "Negotiable instrument" has the same meaning as in section 1303.03 of the Revised Code.

(20) "Nominated person" has the same meaning as in section 1305.01 of the Revised Code.

(21) "Note" has the same meaning as in section 1303.03 of the Revised Code.

(22) "Proceeds of a letter of credit" has the same meaning as in section 1305.13 of the Revised Code.

(23) "Prove" has the same meaning as in section 1303.01 of the Revised Code.

(24) "Sale" has the same meaning as in division (A)(11) of section 1302.01 of the Revised Code.

(25) "Securities account" has the same meaning as in section 1308.51 of the Revised Code.

(26) "Securities intermediary," "security," "security certificate," "security entitlement," and "uncertificated security" have the same meanings as in section 1308.01 of the Revised Code.

(C) In addition, Chapter 1301. of the Revised Code contains general definitions and principles of construction and interpretations applicable throughout this chapter.

Sec. 1311.55. (A) As used in this section:

(1) "Agricultural product" means all fruit and vegetable crops, meat and meat products, milk and dairy products, poultry and poultry products, wool, and all seeds harvested by a producer for sale, except that it does not include any grain crop that is subject to the fee that the director of agriculture may require to be remitted under section 926.16 of the Revised Code. "Agricultural product" also includes an algacultural product as defined in section 901.511 of the Revised Code.

(2) "Agricultural product handling" means engaging in or participating in the business of buying, selling, exchanging, or negotiating or soliciting a purchase, sale, resale, exchange, or transfer of an agricultural product.

(3) "Agricultural product handler" or "handler" means any person who is engaged in the business of agricultural product handling, except that a person who sells only those agricultural products that the person has

produced, or buys agricultural products for the person's own use, is not an agricultural product handler.

(4) "Agricultural producer" or "producer" means any person who grows, raises, or produces an agricultural product on land that the person owns or leases.

(5) "Proceeds" has the same meaning as in division (A)(64) of section 1309.102 of the Revised Code.

(B) An agricultural producer who delivers an agricultural product under an express or implied contract to an agricultural product handler, or an agricultural product handler who delivers an agricultural product under an express or implied contract to another agricultural product handler, has a lien to secure the payment for all of the agricultural product delivered under that contract. The lien attaches to the product, whether in a raw or processed condition, while in the possession of the agricultural product handler, and to the proceeds of the sale of the agricultural product. The lien attaches from the date of delivery of the agricultural product to the handler, or if there is a series of deliveries under the contract, from the date of the first delivery. The lien is contingent until the producer or handler complies with section 1311.56 of the Revised Code.

(C) The lien on an agricultural product covers the contract price agreed upon, or when there is no agreed price at the time of delivery, the value of the agricultural product as determined by the "market news service" of the Ohio department of agriculture on the date the agricultural producer or handler files the affidavit permitted under section 1311.56 of the Revised Code.

(D) Any waiver by a producer or handler of the producer's or handler's right to an agricultural product lien is void as being contrary to public policy.

Sec. 1729.01. As used in this chapter:

(A) "Agricultural cooperative" means a cooperative to which all of the following apply:

(1) The cooperative engages in any activity in connection with the propagation, raising, producing, harvesting, storing, drying, handling, processing, or marketing of agricultural products; procuring equipment and supplies or providing services for producers and others; bargaining; and any activity related to the foregoing.

(2) Producers or agricultural cooperatives exercise more than fifty per cent of the voting control of the cooperative.

(3) The cooperative does at least fifty per cent of its business with producers or agricultural cooperatives.

(B) "Agricultural products" includes aquacultural, horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and farm products, and the produce or byproducts of any of such products. "Agricultural products" also includes algacultural products as defined in section 901.511 of the Revised Code.

(C) "Association" means any corporation organized under this chapter.

(D) "Bargaining" means the mutual obligation of a handler and a marketing cooperative to meet at reasonable times and confer and negotiate in good faith. Negotiations may include all terms relative to trading between handlers and producers. The obligation does not require either party to agree upon price, terms of sale, or any other marketing agreement, or to make a concession.

(E) "Board" means the board of directors of an association.

(F) "Cooperative" means an association or a foreign association.

(G) "Entity," except as otherwise provided, means a foreign association, a foreign or domestic corporation other than a cooperative, or a foreign or domestic limited liability company.

(H) "Foreign association" means a corporation organized under the cooperative laws of another state or the District of Columbia or a foreign corporation organized under corporation laws of another state, the District of Columbia, or the United States that operates on a cooperative basis.

(I) "Handler" means a person who acquires agricultural products under a sales contract for the purpose of processing or reselling agricultural products.

(J) "Marketing agreement" means an agreement, contract, or other arrangement between a cooperative and a member in which the member agrees to market all or a part of the products or produce produced by the member, or agrees to purchase all or a part of the member's requirements for inputs, services, or supplies.

(K) "Marketing cooperative" means any agricultural cooperative meeting the requirements of the "Co-operative Marketing Associations Act," 42 Stat. 388 (1922), 7 U.S.C.A. 291, that negotiates sales contracts with handlers on behalf of its members and is not in direct competition with any handler with which it negotiates such contracts.

(L) "Member" means a person who has been qualified and accepted into membership in a cooperative.

(M) "Membership stock" means any class of stock or other equity interest in a cooperative, continuous ownership of which is required for membership in the cooperative.

(N) "Patron" means a person with which a cooperative has made an

enforceable agreement to allocate and distribute a per unit retain, patronage dividend, or patronage refund with respect to business conducted by the cooperative with or for the person.

(O) "Patronage stock" means any stock or other equity interest in a cooperative that was originally issued by the cooperative with respect to patronage transactions.

(P) "Person" includes a natural person, partnership, corporation, cooperative, or other entity.

(Q) "Processing" means changing the physical or chemical characteristics of agricultural products.

(R) "Producer" means a person engaged in the production of agricultural products for the market, including a lessor of real or personal property used for production of agricultural products for the market that receives as rent part of the agricultural product.

(S) "Sales contract" means a marketing agreement or other similar arrangement between a handler and a producer, negotiated by the producer or by an agricultural cooperative acting as agent for a producer, under which the producer agrees to grow or produce agricultural products for sale to the handler.

Sec. 3781.06. (A)(1) Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall be construed to limit the power of the public health council to adopt rules of uniform application governing manufactured home parks pursuant to section 3733.02 of the Revised Code.

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to either of the following:

(1) Buildings or structures that are incident to the use for agricultural purposes of the land on which the buildings or structures are located, provided those buildings or structures are not used in the business of retail trade. For purposes of this division, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller.

(2) Existing single-family, two-family, and three-family detached

dwelling houses for which applications have been submitted to the director of job and family services pursuant to section 5104.03 of the Revised Code for the purposes of operating type A family day-care homes as defined in section 5104.01 of the Revised Code.

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, algaculture meaning the farming of algae, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one

point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section 3733.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

(9) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit as defined by division (C)(3) of this section, a manufactured home as defined by division (C)(4) of this section, or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(10) "Nonresidential building" means any building that is not a residential building or a manufactured or mobile home.

(11) "Accessory structure" means a structure that is attached to a residential building and serves the principal use of the residential building. "Accessory structure" includes, but is not limited to, a garage, porch, or screened-in patio.

Sec. 5501.50. (A) As used in this section, "agricultural purposes" means commercial animal or poultry husbandry, or the production for a commercial purpose of field crops, tobacco, fruits, or vegetables. "Agricultural purposes" also includes algaculture meaning the farming of algae.

(B) Whenever the director of transportation acquires real property as

provided in section 5501.32 of the Revised Code or otherwise acquires real property in fee simple in the name of the state for highway purposes and subsequently finds the property is not needed for such purposes, or will not be needed for such purposes for a period of two years or more following the date of acquisition of the property, and the property is adjacent to or in the near vicinity of property used for agricultural purposes, the director may, at the director's discretion, offer to lease the property for agricultural purposes for one year at a price consistent with rentals of adjacent agricultural lands in the manner provided in divisions (C), (D), (E), (F), (G), (H), and (I) of this section before conveying or transferring the fee simple estate or any lesser estate or interest in the property, or permitting its use by another.

(C) Real property shall be offered for lease by mailing a notice, in writing, to each person who owns or leases property being used for agricultural purposes that adjoins or is in the near vicinity of the property. The notice shall include a general description of the property offered for lease, the cost of the lease, the manner in which the lease will be made, the requirements of this section, a statement that the person shall notify the director in writing within no more than four weeks following mailing of the notice if the person is interested in leasing the property, and such other information as the director considers necessary.

(D) If the director receives information in writing from two or more persons who are interested in leasing the real property, one of whom is the owner of real property that adjoins the property offered for lease, the director may lease the property to that person. If the director receives such information from two or more persons, two or more of whom are owners of real property that adjoins the property offered for lease, the director shall lease the property to the person whose information is contained in the envelope bearing the earliest postmark.

(E) Any lease made under this section shall be conditioned upon the lessee's written agreement to maintain weed control on the property. If the director has reasonable cause to believe that such an agreement is violated, the director, or any of the director's authorized agents, may, at the director's or authorized agent's discretion, do either of the following:

(1) Provide necessary weed control. The expense of providing weed control shall be paid by the director out of any appropriation to the department of transportation available for the establishment, use, maintenance, or repair of highways and the amount thereof shall be reimbursed by the lessee to the department and if not reimbursed the amount thereof shall be certified to the attorney general for collection by civil action against the lessee of the property.

(2) File a complaint by petition in the court of common pleas of the county in which the property is located. Upon a finding by the court that a violation of the agreement exists as alleged in the petition, the court shall enter an order of abatement against the lessee of the property.

(F) If real property offered for lease as provided in this section is located near a highway where the use of the property for crops such as corn and wheat will obstruct the view of any part of the highway from a person operating a vehicle on the highway or on an intersecting highway or private road, or near an airport where such use of the property may interfere with airport safety, any lease made shall be conditioned upon the lessee's written agreement to use the property for only crops that will not create such an obstruction of the view of the highway or interference with airport safety. If the director has reasonable cause to believe that such an agreement is violated, the director, or any of the director's authorized agents, may, at the director's or authorized agent's discretion, do either of the following:

(1) Remove the crop or such part thereof as may be necessary to ensure that the view of the highway will not be obstructed, or that airport safety will not be reduced. The expense of the removal shall be paid by the director out of any appropriation to the department of transportation available for the establishment, use, maintenance, or repair of highways and the amount thereof shall be reimbursed by the lessee to the department and if not reimbursed the amount thereof shall be certified to the attorney general for collection by civil action against the lessee of the property.

(2) File a complaint by petition in the court of common pleas of the county in which the property is located. Upon a finding by the court that a violation of the agreement exists as alleged in the petition, the court shall enter an order of abatement against the lessee of the property.

(G) The director may offer to renew annually any lease of real property made under this section to the current lessee or may offer the opportunity to lease to others in the manner and subject to the requirements and limitations as provided for in this section.

(H) The requirements of sections 5501.32, 5501.34, and 5501.45 of the Revised Code relating to the appraisal, advertisement, manner of sale, and minimum sale price of property not needed for highway purposes and the requirements of sections 5501.34 and 5501.45 of the Revised Code relating to the use of property not needed for highway purposes for recreation purposes, do not apply to a lease or renewal of a lease of real property made in accordance with this section.

(I) Except as provided in divisions (E)(1) and (F)(1) of this section, all expense incurred in the lease of real property under this section shall be paid

out of the proceeds of the lease and the balance shall be deposited in the highway fund from which the purchase of the real property giving rise to the proceeds was made.

(J) Nothing in this section shall be construed to permit the director to acquire real property by appropriation for the purpose of leasing it for agricultural purposes.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres ~~that to~~ which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use,~~or,~~

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provided that at least fifty per cent of the feedstock used in the production was derived from parcels of land under common ownership or leasehold.

(c) The tracts, lots, or parcels of land were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least

twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use;

(4) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

The construction or installation of an energy facility, as defined in section 5727.01 of the Revised Code, on a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use shall not cause the remaining portion of the tract, lot, or parcel to be regarded as a conversion of land devoted exclusively to agricultural use if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

(G) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.

SECTION 2. That existing sections 1.61, 303.01, 303.21, 519.01, 519.21, 901.511, 903.10, 929.01, 1309.102, 1311.55, 1729.01, 3781.06, 5501.50, and 5713.30 of the Revised Code are hereby repealed.

SECTION 3. (A) The Legislative Task Force to Study Anaerobic Digesters for Agricultural Use and Application in the State is hereby established. The Task Force shall consist of the following members:

(1) Two members of the House of Representatives appointed by the Speaker of the House of Representatives as follows:

- (a) One member shall be from the majority party.
- (b) One member shall be from the minority party.

The Speaker shall designate one of the members appointed by the Speaker as co-chairperson of the Task Force.

(2) Two members of the Senate appointed by the President of the Senate as follows:

- (a) One member shall be from the majority party.
- (b) One member shall be from the minority party.

The President shall designate one of the members appointed by the President as co-chairperson of the Task Force.

(3) The following members appointed by the Speaker of the House of Representatives:

- (a) One member representing the Ohio Farm Bureau Federation;
- (b) One member representing the Ohio Soybean Association;
- (c) One member representing the Ohio Environmental Council or another environmental advocacy organization in the state;
- (d) One member who is an agronomist and actively working with farmers in a distressed watershed in the state;
- (e) One member who is an attorney who is licensed to practice law in the state and who has knowledge of the topics being studied by the Task Force.

(4) The following members appointed by the President of the Senate:

- (a) One member representing the livestock industry in the state;
- (b) One member representing the anaerobic digester industry in the state;
- (c) One member representing the public;
- (d) Two members representing local governments in the state.
- (5) The Director of Agriculture or the Director's designee;
- (6) The Director of Natural Resources or the Director's designee;
- (7) The Director of Environmental Protection or the Director's designee.

(B) Appointments shall be made not later than thirty days after the effective date of this section. A vacancy on the Task Force shall be filled in the same manner as the original appointment. Members of the Task Force shall serve without compensation.

(C) The Task Force shall study all of the following:

(1) The use of anaerobic digesters and the impact of anaerobic digesters on the state;

(2) How the use of anaerobic digesters may impact the environment;

(3) How the use of anaerobic digesters is regulated in other states;

(4) The use of anaerobic digesters in a cooperative setting;

(5) The overall impact of state laws governing the use of anaerobic digesters on agriculture, residents, and local governments in the state.

(D) The Task Force shall prepare and submit the following reports to the General Assembly:

(1) Not later than August 1, 2012, a report of the findings of the Task Force and recommendations concerning the use of anaerobic digesters and the impact of that use on the state;

(2) Not later than October 1, 2012, a report of the findings of the Task Force and recommendations concerning revisions of state law governing anaerobic digesters.

Upon issuance of the report under division (D)(2) of this section, the Task Force shall cease to exist.

(E) The co-chairpersons of the Task Force shall hold meetings at times that the co-chairpersons or a majority of the Task Force considers appropriate. The Task Force shall not hold a meeting unless it provides at least twenty-four hours' notice to news media organizations that have requested such notification.

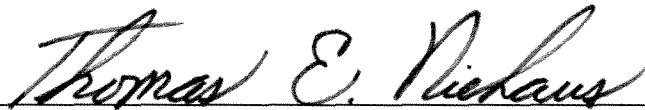
(F) The Task Force shall prepare and maintain minutes of its meetings. The minutes are public records for the purposes of section 149.43 of the Revised Code.

(G) For the purposes of this section, the Legislative Service Commission shall provide professional and technical support to the members of the Task Force that are appointed to it by the Speaker of the House of Representatives and the President of the Senate under divisions (A)(1) and (2) of this section.

SECTION 4. Section 3 of this act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that a thorough understanding of the impact of anaerobic digesters on agriculture, residents, local governments, and the environment is necessary in order to effectively and appropriately regulate them. Therefore, Section 3 of this act shall go into immediate effect.



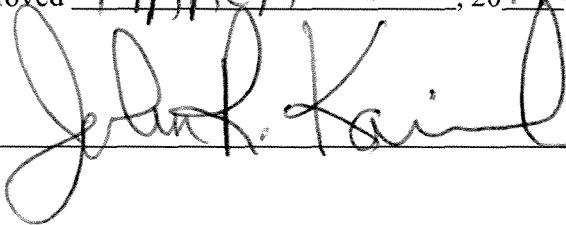
Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed February 15, 2012

Approved MARCH 2, 2012



Governor.

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

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
5th day of March, A. D. 2012.

Joe Husted

Secretary of State.

File No. 82

Effective Date June 4, 2012, except

Section 3 effective March 2, 2012

(129th General Assembly)
(Substitute House Bill Number 276)

AN ACT

To amend sections 1.61, 303.01, 303.21, 519.01, 519.21, 901.511, 903.10, 929.01, 1309.102, 1311.55, 1729.01, 3781.06, 5501.50, and 5713.30 of the Revised Code to include algaculture in the laws governing agriculture, in the definition of "agriculture" for purposes of the laws governing county and township zoning, and in the laws governing current agricultural use valuation; to exclude from zoning restrictions the production from certain feedstocks of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas; to include that production in the laws governing current agricultural use valuation; to provide for the establishment of best management practices for that production under the Concentrated Animal Feeding Facilities Law; to establish the Legislative Task Force to Study Anaerobic Digesters for Agricultural Use and Application in the State; and to declare an emergency.

Introduced by

Representatives Buchy, Gentile

Cosponsors: Representatives Hall, Derickson, Peterson, Balderson, Boose, Ruhl, Murray, O'Brien, Huffman, Grossman, Amstutz, Hackett, Maag, Gonzales, Adams, R., Johnson, Yuko, Fende, Anielski, Antonio, Baker, Barnes, Blair, Bulp, Butler, Carey, Carney, Celeste, Combs, Damschroder, DeGeeter, Dovilla, Driehaus, Duffey, Fedor, Foley, Garland, Goodwin, Goyal, Hagan, C., Hayes, Heard, Henne, Hill, Hottinger, Kozlowski, Landis, Letson, Luckie, Lundy, Mallory, McClain, Milkovich, Newbold, Patmon, Pelanda, Phillips, Ramos, Roegner, Schuring, Sears, Slaby, Slesnick, Sprague, Stebelton, Szollosi, Thompson, Wachtmann, Winburn, Young Speaker Batchelder
Senators Hite, Cafaro, Faber, Bacon, Balderson, Beagle, Burke, Coley, Eklund, Gentile, Hughes, Jones, Kearney, LaRose, Lehner, Manning, Niehaus, Obhof, Patton, Sawyer, Schaffer, Schiavoni, Seitz, Tavares, Wagoner, Widener

Passed by the House of Representatives,

December 13, 2011

Passed by the Senate,

February 14, 2012

*Filed in the office of the Secretary of State at
Columbus, Ohio, on the*

5th day of March, A. D. 2012


Secretary of State.

*Concurred in Senate
amendments
February 15, 2012.*