



OHIO STATE BAR
ASSOCIATION
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Council of Delegates
Meeting

November 13, 2015
1:00 PM
Ohio State Bar Association Headquarters
Columbus

Council of Delegates Meeting

**Friday, November 13, 2015
1:00 p.m.**

President John D. Holschuh Jr., presiding

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COUNCIL OF DELEGATES MEETING AGENDA
Friday, November 13, 2015
1:00 p.m.

President John D. Holschuh Jr., presiding

- I. Roll Call of the Council, Mary Amos Augsburger
- II. Report of the President, John D. Holschuh, Jr.
- III. Report of the Executive Director, Mary Amos Augsburger
- IV. Committee and Section Reports
 - A. Report of the Estate Planning, Trust and Probate Law Section
 1. To add a new division (M)(3) to Section 5801.10 of the *Ohio Revised Code* to clarify that the section does not bar agreements allowed by Section 109.232 of the *Ohio Revised Code*.
 2. To add Section 5802.04 of the *Ohio Revised Code* to clarify how litigation concerning inter vivos trusts is commenced.
 3. To amend Section 5803.02 of the *Ohio Revised Code* to allow a holder of a limited power of appointment to represent the objects of the power to the same extent that the holder of a general power of appointment may currently represent the objects of the power or the takers in default of exercise of the power.
 4. To add a new division (F) to Section 5804.02 of the *Ohio Revised Code* to allow an agent under a power of attorney to create a trust for the principal under certain circumstances and subject to limitations.
 5. To amend Sections 5812.32 and 5812.46 of the *Ohio Revised Code* (part of the Uniform Principal and Income Act, as adopted in Ohio) to incorporate amendments made to the Act by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2008, to amend Section 5812.51 of the *Ohio Revised Code* to remove a reference to the year 1997 made obsolete by the 2008 amendments to the Act and to repeal division (C) and amend division (D) of Section 5815.23 of the *Ohio Revised Code* to avoid an inconsistency with the preceding amendments.
 6. To amend division (K) of section 5814.01 of the *Ohio Revised Code*, to amend division (D) of 5814.04 of the *Ohio Revised Code*, to add new section 5814.09 of the *Ohio Revised Code*, and re-number current

section 5814.09 as 5814.10 of the *Ohio Revised Code* (all part of the Ohio Transfers to Minors Act), to allow donors to delay distribution of custodial property beyond the age of 21 until a specified age, not later than the age of 25.

7. To add a new division (F) to section 5814.02 of the *Ohio Revised Code*, to amend division (G) of section 5814.04 of the *Ohio Revised Code*, to add a new division (E) to section 5814.07 of the Ohio Revised Code, to re-letter the remaining paragraphs of section 5814.07 of the *Ohio Revised Code* and to amend division (F) (former division (E)) of section 5814.07 of the *Ohio Revised Code* (all part of the Ohio Transfers to Minors Act) to clarify who has the right to designate a successor custodian and to clarify how such designation shall be made.
8. To amend division (E)(3) of section 5814.02 of the *Ohio Revised Code* (part of the Ohio Transfers to Minors Act) to increase the minimum value of property above which court approval is necessary for a fiduciary to make a transfer covered by the Act when there is no governing instrument or the governing instrument is silent.

B. Report of the Family Law Committee

To amend Sections 3109.04 and 3109.051 of the *Ohio Revised Code* to guide juvenile courts in custody and parenting time disputes between unwed parents.

C. Report of the Real Property Section

To amend sections 323.47, 1303.16, 1303.38, 2303.26, 2329.01, 2329.151, 2329.17, 2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 2329.30, 2329.31, 2329.33, 2329.34, 2329.39, 2329.52, 2329.56, 2909.07, 5302.01, 5721.371, and 5721.39 and to enact sections 2308.01, 2308.02, 2308.03, 2308.04, 2329.152, 2329.153, 2329.154, 2329.211, 2329.311, 2329.312, 5302.31, 5721.372, and 5721.373 of the *Ohio Revised Code* to establish expedited actions to foreclose mortgages on vacant and abandoned residential properties, to permit private selling officers to conduct judicial sales of real property, to state the intent of the General Assembly on the relationship of state and local laws regarding mortgage foreclosure actions, to revise the Commercial Paper Law relating to mortgages and lost instruments, and to make other changes relative to foreclosure actions.

D. Report of the Corporation Law Committee

To amend O.R.C. §1701.01 et seq. to provide for a new form of for-profit corporation, a “Benefit Corporation,” and to afford the corporation and its directors protection against liability to beneficiaries relating to the corporation’s success or failure to pursue any beneficial purpose.

E. Report of the Taxation Law Committee

To amend *Ohio Revised Code* Section 5747.24 so as to clarify that, when applicable, its presumption of non-Ohio domicile applies independently of common law principles of domicile.

V. Report of the Supreme Court of Ohio, Administrative Director, Michael L. Buenger, Esq.

VI. Adjournment

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**Ohio State Bar Association
2015-2016 Council of Delegates
John D. Holschuh Jr., President**

District 1

(Lost 1 member 2014 certification)

Counties: Butler, Clermont, Clinton, Hamilton and Warren

Board of Governors Representative:

William H. Kaufman, P. O. Box 280 Lebanon, OH 45036-0280	06/30/17
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Council of Delegates (21):

Kendra L. Daugherty, 4529 Aicholtz Road Cincinnati, OH 45245-1001	06/30/16
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Stephanie M. Day, 600 Vine Street, Ste. 2700 Cincinnati, OH 45202-2409	06/30/16
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Timothy A. Garry, Jr., 127 N. 2nd Street Hamilton, OH 45011-2724	06/30/16
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Roger S. Gates, P. O. Box 515 Hamilton, OH 45012-0515	06/30/16
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John C. Kaspar, 130 E. Mulberry Street Lebanon, OH 45036-2206	06/30/16
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Doloris F. Learmonth, 255 E. Fifth Street, Ste. 1900 Cincinnati, OH 45202-1971	06/30/16
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David H. Lefton, 3074 Madison Road Cincinnati, OH 45209-1723	06/30/16
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Charles H. Rittgers, 12 E. Warren Street Lebanon, OH 45036-1860	06/30/16
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Kenneth F. Seibel, 30 Garfield Place, Ste. 905 Cincinnati, OH 45202-1116	06/30/16
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James C. Shew, 16 N. Main Street Middletown, OH 45042-1905	06/30/16
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William B. Strubbe, 1 W. 4th Street, Ste. 2100 Cincinnati, OH 45202-3608	06/30/16
Karen Buckley, 17 Peterson Place Wilmington, OH 45177-2132	06/30/17
Terrence M. Donnellon, 9079 Montgomery Road Cincinnati, OH 45242-7711	06/30/17
Tawanda J. Edwards, 7 W. 7 th Street Cincinnati, OH 45202-2471	06/30/17
Richard I. Fleischer, 810 Sycamore Street, 2 nd Floor Cincinnati, OH 45202	06/30/17
Gregory S. French, 1244 Padlock Hills Avenue Cincinnati, OH 45229-1218	06/30/17
Michael L. Gay, 537 East Pete Rose Way, Ste. 400 Cincinnati, OH 45202-3502	06/30/17
Barbara J. Howard, 120 E. Fourth Street, Ste. 960 Cincinnati, OH 45202-4096	06/30/17
Stephen C. Lane, 7419 Kingsgate Way, Ste. A West Chester, OH 45069	06/30/17
Charles E. Strain, 4030 Mt. Carmel-Tobasco Road, #103, Cincinnati, OH 45255	06/30/17
John J. Williams, 2712 Observatory Avenue Cincinnati, OH 45208	06/30/17

District 2

Counties: Darke, Miami, Montgomery, Preble and Shelby

Board of Governors Representative:

Judge James F. Stevenson, P. O. Box 947 Sidney, OH 45365-0947	06/30/18
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Council of Delegates (9):

Mag. Gary J. Carter, Shelby Co. Common Pleas Court, Courthouse, 3 rd Floor, Sidney, OH 45365	06/30/16
Dalma C. Grandjean, 1 S. Main Street, Ste. 1590 Dayton, OH 45402-2026	06/30/16
Stephen R. Bruns, 123 W. Main Street Eaton, OH 45320	06/30/17
Michael P. Brush, 2233 Miamisburg Centerville Road Dayton, OH 45459-3816	06/30/17
Thomas L. Guillozet, 207 E. Main Street Versailles, OH 45380-1521	06/30/17
Robert A. McCarthy, P. O. Box 8 Troy, OH 45373-0008	06/30/17
Michael W. Sandner, 75 Trevor Lane Springboro, OH 45066-8306	06/30/17
Andrew C. Storar, 40 N. Main Street, Ste. 2700 Dayton, OH 45423-2700	06/30/17
Danyelle S. Wright, 11067 Cold Spring Drive Dayton, OH 45458	06/30/17

District 3

**Counties: Defiance, Fulton, Hancock, Henry, Paulding, Putnam,
Van Wert, Williams and Wood**

Board of Governors Representative:

Alan J. Lehenbauer, 105 Lincoln Avenue Swanton, OH 43558-1018	06/30/16
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Council of Delegates (3):

Scott T. Coon, 100 S. Main, 2 nd Floor Bowling Green, OH 43402-2945	06/30/16
Michael A. Shaffer, 117 W. Maple Street Bryan, OH 43506-1691	06/30/16

Steven J. Sondergaard, 116 Grand Avenue
Defiance, OH 43512-1646 06/30/17

District 4

Counties: Lucas, Ottawa and Sandusky

Board of Governors Representative:

Louise A. Jackson, 1 SeaGate, 24th Floor
Toledo, OH 43604-1576 06/30/17

Council of Delegates (8):

Paula S. Hicks-Hudson, 2633 Robinwood Avenue
Toledo, OH 43610-1354 06/30/16

Gary A. Kohli, 142 W. Water Street
Oak Harbor, OH 43449-1332 06/30/16

Linde H. Webb, 4930 N. Holland Sylvania Road,
Ste. 1, Sylvania, OH 43560-2149 06/30/16

James D. Caruso, 1933 Spielbusch Avenue
Toledo, OH 43604-5360 06/30/17

Stuart F. Cubbon, 405 N. Huron Street, Ste. 500
Toledo, OH 43697 06/30/17

Judge Kathleen L. Giesler, Ottawa Co. Probate/Juvenile Court
315 Madison Street, Port Clinton, OH 43452 06/30/17

John F. Hall, 1430 Oak Harbor Road
Fremont, OH 43420-2424 06/30/17

Sarah K. Skow, 4 SeaGate, Ste. 400
Toledo, OH 43604-2622 06/30/17

District 5

Counties: Crawford, Delaware, Marion, Morrow, Seneca and Wyandot

Board of Governors Representative:

Mag. Terrie L. Clinger, Delaware Co. Common Pleas Court
91 N. Sandusky Street, 3rd Floor, Delaware OH 43015 06/30/17

Council of Delegates (3):

Sean A. Martin, 503 Monticello Drive Fostoria, OH 44830-1635	06/30/16
Victor H. Perez, 900 E. County Road 20 Tiffin, OH 44883-8990	06/30/16
Grant B. Garverick, 126 S. Market Street Galion, OH 44833	06/30/17

District 6

Counties: Champaign, Clark, Fayette, Greene, Logan, Madison and Union

Board of Governors Representative:

Randall M. Comer, 1 S. Limestone Street, Ste. 800 Springfield, OH 45502-1269	06/30/16
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Council of Delegates (3):

William C. Hicks, P. O. Box 1687 Springfield, OH 45501-1687	06/30/16
James F. Peifer, P. O. Box 1087 Springfield, OH 45501-1087	06/30/17
Douglas M. Smith, 112 N. Main Street Bellefontaine, OH 43311-2089	06/30/17

District 7

Counties: Franklin

Board of Governors Representative:

Judge Stephen L. McIntosh, 345 S. High Street, Court Room 4B, Columbus, OH 43215-4516	06/30/17
Kristin J. Long, 373 S. High Street, 25th Floor Columbus, OH 43215	06/30/17
Eleni A. Drakatos, 1243 S. High Street Columbus, OH 43206-3445	06/30/18

Council of Delegates (31):

Belinda S. Barnes, 471 E. Broad Street, 19 th Floor Columbus, OH 43215-3872	06/30/16
Sally W. Bloomfield, 100 S. Third Street Columbus, OH 43215-4291	06/30/16
Alphonse P. Cincione, 2200 W. 5 th Avenue, 3 rd Floor Columbus, OH 43215-3337	06/30/16
H. Ritchey Hollenbaugh, 366 E. Broad Street Columbus, OH 43215-3876	06/30/16
Mag. Amy B. Koorn, 373 S. High Street, Floor 22 Columbus, OH 43215-6311	03/30/16
Helen M. MacMurray, 6530 W. Campus Oval, Ste. 210, New Albany, OH 43054	06/30/16
LeeAnn M. Massucci, 250 Civic Center Drive, Ste. 630, Columbus, OH 43215	06/30/16
Alvin E. Mathews, 115 W. Main Street, 4 th Floor Columbus, OH 43215-5099	06/30/16
Sandra R. McIntosh, 65 E. State Street, Ste. 800 Columbus, OH 43215-4247	06/30/16
Keith W. Schneider, 1650 Lake Shore Drive, Ste. 150 Columbus, OH 43204-4942	06/30/16
Heather G. Sowald, 400 S. Fifth Street, Ste. 101 Columbus, OH 43215-5430	06/30/16
Mag. Elizabeth J. Watters, 345 S. High Street, Room 5807, Columbus, OH 43215-4516	06/30/16
Bradley B. Wrightsel, 3300 Riverside Drive, Ste. 100 Columbus, OH 43221-1726	06/30/16
Jennifer A. Adair, 30 E. Broad Street, 16 th Floor Columbus, OH 43215-3414	06/30/17
Stephanie D. Adams, 5582 Nash Trail Columbus, OH 43228-8919	06/30/17

Kathleen N. Battle, 650 Ackerman Road, Room 224 Columbus. OH 43202-4500	06/30/17
Thomas J. Bonasera, 191 W. Nationwide Boulevard, Ste. 300, Columbus, OH 43215-2569	06/30/17
Katherine S. Chappellear, 373 S. High Street, 14 th Floor Columbus, OH 43215-4591	06/30/17
Stephen E. Chappellear, 10 W. Broad Street, Ste. 2300 Columbus, OH 43215-3467	06/30/17
Donald B. Leach, Jr., 191 W. Nationwide Boulevard, Ste. 300, Columbus, OH 43215-2569	06/30/17
Scott R. Mote, 1650 Lake Shore Drive, Ste. 375 Columbus, OH 43204-4991	06/30/17
Jay G. Perez, 330 S. High Street Columbus, OH 43215	06/30/17
Stacy V. Pollock, 175 S 3rd Street, Ste. 1000 Columbus, OH 43215-5197	06/30/17
Rene L. Rimelspach, 100 E. Broad Street, Ste. 2100 Columbus, OH 43215-3659	06/30/17
Andrea M. Salimbene, 1335 Dublin Road, Ste. 216A Columbus, OH 43215	06/30/17
Carl D. Smallwood, P. O. Box 1008 Columbus, OH 43216-1008	06/30/17
Beatrice K. Sowald, 125 Eastmoor Boulevard Columbus, OH 43209-2017	06/30/17
Chad M. Stonebrook, 3956 Brown Park Drive, Ste. B Hilliard, OH 43026-1159	06/30/17
E. Jane Taylor, 10 W. Broad Street, Ste. 950 Columbus, OH 43215-3483	06/30/17
Levi J. Tkach, 604 E. Rich Street Columbus, OH 43215-5341	06/30/17
Thomas W. Weeks, 555 Buttles Avenue Columbus, OH 43215-1137	06/30/17

District 8

Counties: Adams, Brown, Gallia, Highland, Jackson, Lawrence, Pickaway, Pike, Ross, Scioto and Vinton

Board of Governors Representative:

Judge Howard H. Harcha III, 602 7th Street
Portsmouth, OH 45662-3948 06/30/18

Council of Delegates (2):

Frederick C. Fisher, 311 Park Avenue
Ironton, OH 45638-1525 06/30/16

Karyn J. Justice, 602 Chillicothe Street, Ste. 441
Portsmouth, OH 45662 06/30/17

District 9

Counties: Coshocton, Fairfield, Knox, Licking, Muskingum and Perry

Board of Governors Representative:

J. Kristin Burkett, 73 N. 6th Street
Newark, OH 43055 06/30/16

Council of Delegates (3):

William M. Owens, 413 Main Street, 2nd Floor
Coshocton, OH 43812 06/30/16

Linda L. Smith, P. O. Box 536
New Lexington, OH 43764-0536 06/30/17

Judge Dean L. Wilson, P. O. Box 207
Zanesville, OH 43702-0340 06/30/17

District 10

(Lost 1 member 2014 certification)

Counties: Ashland, Erie, Holmes, Lorain, Medina, Richland, Huron and Wayne

Board of Governors Representative:

Kevin W. Donovan, 5333 Meadow Lane Court
Elyria, OH 44035-1469 06/30/17

Council of Delegates (6):

Luke T. Brewer, 88 S. Monroe Street
Millersburg, OH 44654-1436 06/30/16

Gowri V. Hampole, 401 Broad Street, Ste. 211
Elyria, OH 44035 06/30/16

Patricia A. Walker, 231 South Broadway Street
Medina, OH 44256-2601 06/30/16

Brian D. Kerns, 46 Public Square, Ste. 230
Medina, OH 44256 06/30/17

Andrew P. Lycans, P. O. Box 599
Wooster, OH 44691-0599 06/30/17

Richard R. Mellott Jr., 5750 Cooper Foster Park Road,
Ste. 102, Lorain, OH 44053-4132 06/30/17

District 11

Counties: Portage and Summit

Board of Governors Representative:

Judge Linda Tucci Teodosio, 650 Dan Street
Akron, OH 44310-1256 06/30/18

Council of Delegates (9):

Frank J. Cimino, 250 S. Chestnut Street, Ste. 18
Ravenna, OH 44266-3199 03/30/16

William D. Dowling, 3800 Embassy Parkway,
Ste. 300, Akron, OH 44333-8332 06/30/16

Montrella S. Jackson, 833 Kennebec Avenue Akron, OH 44305-1135	06/30/16
Maura E. Scanlon, 50 S. Main Street, Ste. 504 Akron, OH 44308-1831	06/30/16
Cheri B. Cunningham, 784 Hampton Ridge Drive Akron, OH 44313	06/30/17
Stephen A. Fallis, 1321 Village Drive Akron, OH 44313	06/30/17
Melissa A. Graham-Hurd, 333 S. Main Street, Ste. 301 Akron, OH 44308-1225	06/30/17
Jessica A. Lopez, 222 S. Main Street, Ste. 400 Akron, OH 44308	06/30/17
Bruce H. Wilson, 120 E. Mill Street, Ste. 416 Akron, OH 44308	06/30/17

District 12

(Lost 1 member 2014 certification)

Counties: Cuyahoga

Board of Governors Representative:

Ronald V. Johnson Jr., 127 Public Square, OH-01-27-0200 Cleveland, OH 44114-1306	06/30/16
Robin G. Weaver, 127 Public Square, Ste. 4900 Cleveland, OH 44114-1284	06/30/16

Council of Delegates (30):

David Arnold, 1301 E. Ninth Street, Ste. 1900 Cleveland, OH 44114-1862	06/30/16
Britney A. Bennett, 1980 Stanwood Rd Cleveland, OH 44112	06/30/16
Matthew D. Besser, 5885 Landerbrook Drive, Ste. 302, Cleveland, OH 44124	06/30/16

Darrell A. Clay, 1301 E. 9 th Street, Ste. 3500 Cleveland, OH 44114-1821	06/30/16
Joel D. Eagle, 127 Public Square, Ste. 3900 Cleveland, OH 44114-1291	06/30/16
Christa A.G. Heckman, 950 Main Avenue, 4 th Floor Cleveland, OH 44113-7201	06/30/16
Jacob A. H. Kronenberg, 635 W. Lakeside Avenue, Ste. 605, Cleveland, OH 44113-1093	06/30/16
Kelly Summers Lawrence, 200 Public Square, Ste. 3000, Cleveland, OH 44114-2316	06/30/16
William J. Price, 6105 Parkland Boulevard Mayfield Heights, OH 44124-4188	06/30/16
Adam J. Russ, 200 Public Square, Ste. 3000 Cleveland, OH 44114-2316	06/30/16
Michael S. Tucker, 1660 W. 2 nd Street, Ste. 1100 Cleveland, OH 44113-1448	06/30/16
Donald E. Worthing, 11500 Somerset Drive, Apt. 222 North Royalton, OH 44133-2671	06/30/16
Barbara Friedman Yaksic, 25550 Chagrin Boulevard, Ste. 406, Cleveland, OH 44122-4640	06/30/16
Keith A. Ashmus, 200 Public Square, Ste. 3000 Cleveland, OH 44114-2316	06/30/17
Howard R. Besser, 4917 Highland Place Court Cleveland, OH 44143-2786	06/30/17
Eileen M. Bitterman, 323 W. Lakeside Ave., Ste. 200 Cleveland, OH 44113-1099	06/30/17
Jeffrey A. Brauer, 200 Public Square, Ste. 2800 Cleveland, OH 44114-2303	06/30/17
Michael C. Brink, 950 Main Avenue, Ste. 1100 Cleveland, OH 44113-7213	06/30/17

Anne Owings Ford, 12211 Chestnut Circle Brecksville, OH 44141-3608	06/30/17
Michael J. Frantz Jr., 200 Public Square, Ste. 3000 Cleveland, OH 44114-2316	06/30/17
Stacy C. Hinnners, 101 W. Prospect Avenue Cleveland, OH 44115-1075	06/30/17
Donald N. Jaffe, 1301 E. 9th Street, Ste. 1900 Cleveland, OH 44114-1862	06/30/17
Alexandra B. Jeanblanc, 5247 Wilson Mills Road, Ste. 582, Cleveland, OH 44143-3016	06/30/17
Fredric E. Kramer, 123 West Prospect Avenue, Ste. 250 Cleveland, OH 44115-1027	06/30/17
David A. Kutik, 901 Lakeside Avenue Cleveland, OH 44114-1190	06/30/17
Theodore M. Mann Jr., 925 Euclid Avenue, Ste. 644 Cleveland, OH 44115-1493	06/30/17
Marlon A. Primes, 801 W. Superior Avenue, Ste. 400 Cleveland, OH 44113-1850	06/30/17
William L.S. Ross, 1405 E. 6th Street, Cleveland, OH 44114-1607	06/30/17
Daniel J. Ryan, 55 Public Square, Ste. 2100, Cleveland, OH 44113	06/30/17
Nancy C. Schuster, 2913 Clinton Avenue Cleveland, OH 44113-2940	06/30/17

District 13

Counties: Columbiana and Mahoning

Board of Governors Representative:

Stephen T. Bolton, 201 E. Commerce Street, Level Two, Youngstown, OH 45503-1641	06/30/17
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Council of Delegates (3):

Don W. Humphrey Jr., 38832 Saltwell Road Lisbon, OH 44432	06/30/16
J. Michael Thompson, 6 Federal Plaza Central, Ste. 1300, Youngstown, OH 44503	06/30/16
Ronald E. Slipski, P. O. Box 849 Youngstown, OH 44501-0849	06/30/17

District 14

Counties: Carroll, Stark and Tuscarawas

Board of Governors Representative:

Paul B. Hervey, P. O. Box 1014 New Philadelphia, OH 44663-1014	06/30/18
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Council of Delegates (5)

Erick L. Bauer, 204 W. High Street New Philadelphia, OH 44663	06/30/16
Daniel R. Griffith, 6141 Whipple Avenue, NW North Canton, OH 44720	06/30/16
Thomas P. Moushey, 1844 W. State Street, Ste. A Alliance, OH 44601-5713	06/30/17
D. Stephen Stone, 981 W. State Street Alliance, OH 44601-4676	06/30/17
Jennifer L. Thomas, P. O. Box 235 Carrollton, OH 44615-0235	06/30/17

District 15

Counties: Belmont, Guernsey, Harrison, Jefferson and Monroe

Board of Governors Representative:

Costa D. Mastros, 401 Market Street, Ste. 1210 Steubenville, OH 43952	06/30/18
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Council of Delegate (1):

Charles H. Bean, 113 W. Main Street
St. Clairsville, OH 43950-1224 06/30/17

District 16

Counties: Allen, Auglaize, Hardin and Mercer

Board of Governors Representative:

Judge Glenn H. Derryberry, Allen County Juvenile Court
1000 Wardhill Avenue, Lima, OH 45805-3533 06/30/18

Council of Delegates (2):

Judge Jeffrey L. Reed, Allen Co. Common Pleas Court
301 N. Main Street, Lima, OH 45802 06/30/16

Judge William D. Hart (Ret.), 14825 Township Road 114
Kenton, OH 43326 06/30/17

District 17

Counties: Athens, Hocking, Meigs, Morgan, Noble and Washington

Board of Governors Representative:

Thomas H. Gerken, 14640 Bradford Drive
Logan, OH 43138-8367 06/30/16

Council of Delegates (1):

Michael L. Barr, 211 E. 2nd Street, #213
Pomeroy, OH 45769-1031 06/30/17

District 18

Counties: Ashtabula, Geauga, Lake and Trumbull

Board of Governors Representative:

David J. Sternberg, 7547 Mentor Avenue, Ste. 301
Mentor, OH 44060-5466 06/30/16

Council of Delegates (4):

Thomas G. Carey Jr., 108 Main Avenue, SW., Ste. 500 Warren, OH 44481	06/30/16
Todd C. Hicks, 100 7 th Avenue, Ste. 150 Chardon, OH 44024-1079	06/30/16
Stuart W. Cordell, P. O. Box 2300 Ashtabula, OH 44005-2300	06/30/17
Lora Lynne Krider, 25 N. Park Place Painesville, OH 44077-3416	06/30/17

At-Large Delegates

Jeffrey T. Heintz, 388 S. Main Street, Suite 500 Akron, OH 44311-4407	06/30/16
Carmen V. Roberto, 23 South Main Street, 3 rd Floor Akron, OH 44308	06/30/16
John S. Stith, 250 E. 5 th Street, Ste. 2200 Cincinnati, OH 45202-5118	06/30/16
Mag. Joseph S. Gallagher, 41 N. Perry Street Dayton, OH 45402-1431	06/30/18
Carol Seubert Marx, 106 Starrit Street, Ste. 210 Lancaster, OH 43130-3993	06/30/18
Melissa A. Schiffel, 150 E. Gay Street, 16 th Floor Columbus, OH 43215-3130	06/30/18

Parliamentarian

Gus J. Lazares, 121 W. High Street Oxford, OH 45056	06/30/16
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At-Large Board of Governors Appointees

Robin G. Weaver, 127 Public Square, Ste. 4900 Cleveland, OH 44114-1284	06/30/16
Kristen J. Long, 373 S. High Street, 25 th Floor Columbus, OH 43215	06/30/17

Eleni A. Drakatos, 1243 S. High Street
Columbus, OH 43206-34445 06/30/18

OSBA Elected Officers and Past Officers

John D. Holschuh Jr., President, 600 Vine Street, Ste. 2700
Cincinnati, OH 45202-2409 06/30/16

Ronald S. Kopp, President-elect, 222 S. Main Street, Ste. 400
Akron, OH 44308-1522 06/30/17

Martin E. Mohler, Immediate Past President
300 Madison Avenue, Ste. 1200, Toledo, OH 43604-1556 06/30/16

OHIO STATE BAR ASSOCIATION

BYLAWS OF THE COUNCIL OF DELEGATES

Section I

In the absence or disability of both the president and president-elect of the Association, the meetings of this Council shall be presided over by a chairperson pro tempore, elected by a majority vote of the Council members present, which chairperson, when elected, shall serve in that capacity only during the sessions of the meeting at which he or she is elected. The secretary shall convene the first session of any meeting from or at which both the president and president-elect are absent or unable to preside, and preside during the election of such chairperson pro tempore.

Section II

No action shall be taken upon reports of committees or sections of the Association unless they are submitted in writing; and no such committee or section report, which has been published in the *Ohio State Bar Association Report* or other publication of the Association that is distributed to all regular members, as directed by the Board of Governors, prior to the date of the meeting of the Council, shall be read orally to the meeting unless, by motion adopted by two-thirds vote of the delegates present, such a reading be ordered.

Section III

No person shall, without the consent of two-thirds of the delegates present, be entitled to speak more than once or for more than five minutes on any issue before the Council. Reports presented by committees and sections shall be limited to ten minutes, provided, however, that the ten-minute restriction shall not apply to the discussion of a proposal subsequent to its initial presentation. A member of the council or person presenting a report or resolution shall be entitled to open and close the discussion on the matter under consideration.

Section IV

Voting on all matters shall be by voice vote unless the presiding officer is in doubt concerning the result, or a division of the house is requested by any member, in either of which events a standing vote shall be taken.

Section V

The president of the Association shall, with the advice and consent of the Board of Governors, appoint a parliamentarian to aid and assist him or her or the chairperson at all meetings of the Council of Delegates. Said parliamentarian, whose term of office shall be concurrent with that of the president, shall not be a member of the current Board of Governors or the Council of Delegates.

Section VI

The order of business of all meetings of the Council of Delegates shall be the following:

1. Roll call.
2. Action of minutes of previous meetings.
3. Unfinished business from preceding day, if any.
4. Special order of business for the day, as previously prepared by the president, president-elect and secretary of the Association.
5. New business.

Section VII

Roberts’ Rules of Order shall govern the Council of Delegates in all its proceedings, except to the extent to which these bylaws are, or the constitution of the Association is, inconsistent therewith.

Section VIII

These bylaws may be amended by the majority vote of the delegates present at any meetings, provided the proposed amendment has been published in the *Ohio State Bar Association Report* or other publication of the Association that is distributed to all regular members as directed by the Board of Governors at least once, not less than one week prior to the date of the meeting at which action on said amendment is taken.

As amended by the Council of Delegates November 7, 2003

1 **REPORT OF THE ESTATE PLANNING, TRUST AND PROBATE LAW SECTION**

2

3 *To the Council of Delegates:*

4

5 The Estate Planning, Trust and Probate Law (EPTPL) Section hereby respectfully requests
6 your favorable consideration of eight legislative proposals, which may be summarized as
7 follows:

8

9 A. To add a new division (M)(3) to Section 5801.10 of the *Ohio Revised Code* to
10 clarify that the section does not bar agreements allowed by Section 109.232 of
11 the *Ohio Revised Code*.

12

13 B. To add Section 5802.04 of the *Ohio Revised Code* to clarify how litigation
14 concerning inter vivos trusts is commenced.

15

16 C. To amend Section 5803.02 of the *Ohio Revised Code* to allow a holder of a
17 limited power of appointment to represent the objects of the power to the
18 same extent that the holder of a general power of appointment may currently
19 represent the objects of the power or the takers in default of exercise of the
20 power.

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- D. To add a new division (F) to Section 5804.02 of the *Ohio Revised Code* to allow an agent under a power of attorney to create a trust for the principal under certain circumstances and subject to limitations.

- E. To amend Sections 5812.32 and 5812.46 of the *Ohio Revised Code* (part of the Uniform Principal and Income Act, as adopted in Ohio) to incorporate amendments made to the Act by the [National Conference of Commissioners on Uniform State Laws](#) (NCCUSL) in 2008, to amend Section 5812.51 of the *Ohio Revised Code* to remove a reference to the year 1997 made obsolete by the 2008 amendments to the Act and to repeal division (C) and amend division (D) of Section 5815.23 of the *Ohio Revised Code* to avoid an inconsistency with the preceding amendments.

- F. To amend division (K) of section 5814.01 of the *Ohio Revised Code*, to amend division (D) of 5814.04 of the *Ohio Revised Code*, to add new section 5814.09 of the *Ohio Revised Code*, and re-number current section 5814.09 as 5814.10 of the *Ohio Revised Code* (all part of the Ohio Transfers to Minors Act), to allow donors to delay distribution of custodial property beyond the age of 21 until a specified age, not later than the age of 25.

- G. To add a new division (F) to section 5814.02 of the *Ohio Revised Code*, to amend division (G) of section 5814.04 of the *Ohio Revised Code*, to add a new division (E) to section 5814.07 of the *Ohio Revised Code*, to re-letter the remaining paragraphs of section 5814.07 of the *Ohio Revised Code* and to amend division (F) (former division (E)) of section 5814.07 of the *Ohio Revised Code* (all part of the Ohio Transfers to Minors Act) to clarify who has the right to designate a successor custodian and to clarify how such designation shall be made.

- H. To amend division (E)(3) of section 5814.02 of the *Ohio Revised Code* (part of the Ohio Transfers to Minors Act) to increase the minimum value of property above which court approval is necessary for a fiduciary to make a transfer covered by the Act when there is no governing instrument or the governing instrument is silent.

Respectfully submitted,

Roy A. Krall, Akron

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PROPOSAL A: TO AMEND OHIO LAW TO CLARIFY THAT AGREEMENTS ALLOWED BY ONE SECTION OF THE REVISED CODE ARE NOT BARRED BY ANOTHER.

Summary and Rationale for Proposal

Section 109.232 of the *Ohio Revised Code* permits agreements correcting charitable remainder trusts that are similar to the private settlement agreements authorized by Section 5801.10 of the *Ohio Revised Code*. However, agreements under Chapter 109 generally cannot meet the requirements for agreements under Chapter 5801 of the *Ohio Revised Code*, because Section 5801.10(M) of the *Ohio Revised Code* bars most agreements involving charitable interests. It is therefore uncertain whether agreements under Chapter 109 are thus barred by Chapter 5801. The Section Council proposes to clarify that agreements under Chapter 109 are permissible by adding new subdivision (3) to division (M) of Section 5801.10 of the *Ohio Revised Code* as shown in redlined format below.

Text of the Proposal

5801.10

(M) Subject to divisions (B)(2) and (C)(7) of this section, this section does not apply to any of the following:

* * *

(3) An agreement pursuant to section 109.232 of the *Ohio Revised Code*.

PROPOSAL B: TO AMEND OHIO LAW TO CLARIFY HOW LITIGATION CONCERNING INTER VIVOS TRUSTS IS COMMENCED.

Summary and Rationale for Proposal

Uncertainty has been expressed, particularly among court staff, how litigation involving inter vivos trusts may be commenced. Section 5801.08(D) of the *Ohio Revised Code* provides that notice of judicial proceedings must be given as provided in the Civil Rules, but does not speak specifically of commencement of an action. The Section Council therefore proposes to supply the omission by enactment of a new section of the *Ohio Revised Code* as shown in redlined format below.

104 **Text of the Proposal**

105
106 [5802.04](#)

107
108 [An action brought under the *Ohio Trust Code* is a civil action, subject to the Ohio](#)
109 [Rules of Civil Procedure, and unless it involves a testamentary or other trust that already is](#)
110 [subject to court supervision, is commenced by filing a complaint.](#)

111
112 **PROPOSAL C: TO AMEND OHIO LAW TO ALLOW A HOLDER OF A LIMITED**
113 **POWER OF APPOINTMENT TO REPRESENT THE OBJECTS OF THE POWER**
114 **TO THE SAME EXTENT THAT THE HOLDER OF A GENERAL POWER OF**
115 **APPOINTMENT MAY CURRENTLY REPRESENT THE OBJECTS OF THE**
116 **POWER OR THE TAKERS IN DEFAULT OF EXERCISE OF THE POWER.**

117
118 **Summary and Rationale for Proposal**

119
120 Section 5803.02 of the *Ohio Revised Code* allows the holder of a general power of
121 appointment to represent and bind persons whose interests, as permissible appointees, takers
122 in default or otherwise are subject to the power (assuming no conflicting interests). To
123 facilitate settlement agreements and litigation, the Section Council proposes to extend
124 representation by also allowing the holder of a limited power of appointment to represent the
125 permissible appointees only. For example, the holder of a power to appoint property to
126 anyone except the holder, the holder's creditors, the holder's estate or creditors of the
127 holder's estate (a common tax-oriented power) would be able to represent any person except
128 the four exceptions to the power that are stated in its grant, avoiding the obvious issue of how
129 you sue or settle with almost the entire world. Takers in default under such powers would not
130 be represented by the holder. The Section Council thus proposes to amend 5803.02 of the
131 *Ohio Revised Code* as shown in redlined format below.

132
133 **Text of the Proposal**

134
135 5803.02

136
137 To the extent there is no conflict of interest between the holder of a general
138 testamentary power of appointment and the persons represented with respect to the particular
139 question or dispute, the holder may represent and bind persons whose interests, as
140 permissible appointees, takers in default or otherwise, are subject to the power. [To the extent](#)
141 [there is no conflict of interest between the holder of a limited testamentary power of](#)
142 [appointment or a presently exercisable limited power of appointment and the persons](#)
143 [represented with respect to the particular question or dispute, the holder may also represent](#)
144 [and bind persons whose interests as possible appointees are subject to the power.](#) The rights
145 of the holder of a presently exercisable general power of appointment are governed by
146 Section 5806.03 of the *Ohio Revised Code*.

147
148 **PROPOSAL D: TO AMEND OHIO LAW TO ALLOW AN AGENT UNDER A**
149 **POWER OF ATTORNEY TO CREATE A TRUST FOR THE PRINCIPAL UNDER**

150 **CERTAIN CIRCUMSTANCES AND SUBJECT TO LIMITATIONS.**

151
152 **Summary and Rationale for Proposal**

153
154 The new Ohio Uniform Power of Attorney Act provides in Sections 1337.42 and
155 1337.58 of the *Ohio Revised Code* that (under stated conditions) an agent may create a trust
156 for the principal. The *Ohio Trust Code* appears to make that impossible, by requiring for trust
157 creation under Sections 5804.02(A)(1) and (2) that the settlor is competent and intends to
158 create the trust. The Section Council would resolve the conflict by permitting trust creation,
159 an important planning device, subject to the existing safeguards in Sections 1337.42 and
160 1337.58 of the Revised Code. The Section Council thus proposes to amend Section 5804.02
161 of the *Ohio Revised Code* by adding a new division (F) as shown in redlined format below:
162

163 **Text of the Proposal**

164
165 5804.02

166
167 (F) An agent under a power of attorney may create a trust for the principal, whether or
168 not the principal has capacity to create the trust and indicates an intention to create
169 the trust, but only as provided in sections 1337.21 to 1337.64 of the *Ohio Revised*
170 *Code*, including sections 1337.42 and 1337.58 of the *Ohio Revised Code* and their
171 limitations on creation of trusts and on gifts of property of the principal and the duty
172 of the agent to attempt to preserve the principal's estate plan.
173

174 **PROPOSAL E: TO AMEND OHIO LAW TO INCORPORATE AMENDMENTS**
175 **THAT THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM**
176 **STATE LAWS (NCCUSL) MADE TO THE UNIFORM PRINCIPAL AND INCOME**
177 **ACT IN 2008.**

178
179 **Summary and Rationale for Proposal**

180
181 Annuities, individual retirement accounts (IRAs), pension plans, profit-sharing plans
182 and other similar funds (Retirement Plans) are often payable to trustees of trusts. If the terms
183 of the trust do not specify how much of each distribution from a Retirement Plan is to be
184 characterized as income and how much of each distribution is to be characterized as
185 principal, state law provides default rules.
186

187 Section 409 of the Uniform Principal and Income Act (UPIA), which corresponds to
188 Section 5812.32 of the *Ohio Revised Code*, provides these default rules.
189

190 In Revenue Ruling 2006-26, the Internal Revenue Service (IRS) criticized the part of
191 Section 409 of UPIA (and thus the corresponding part of Section 5812.32 of the *Ohio*
192 *Revised Code*) relating to distributions from Retirement Plans to trusts that qualify for the
193 federal estate tax marital deduction.
194

195 UPIA was amended by the [National Conference of Commissioners on Uniform State](#)

196 [Laws](#) (NCCUSL) in 2008 to address the criticism of the IRS and make the UPIA consistent
197 with the IRS’s “safe harbor” requirements for the estate tax marital deduction. The 2008
198 Amendments have been adopted by a majority of UPIA states to date, but not Ohio as yet. If
199 Ohio does not adopt the 2008 Amendments to UPIA, then trusts relying upon the default rule
200 of Section 5812.32 of the *Ohio Revised Code* might not qualify for the federal estate tax
201 marital deduction, which could cause the surviving spouse’s interests to be subject to federal
202 estate tax at the death of the first spouse, to the detriment of the surviving spouse.
203

204 UPIA Section 505 corresponds to Section 5812.46 of the *Ohio Revised Code*.
205 NCCUSL’s amendments to Section 505 (and now proposed for Section 5812.46 of the
206 Revised Code) address and provide needed clarification concerning the source of payment of
207 income taxes in the common situation where the trustee of a trust owns an interest in a pass-
208 through entity and is taxed on the income of the entity, but the entity does not distribute all of
209 the income to the trustee and the trust provides for mandatory income distribution to one or
210 more beneficiaries.
211

212 Amended UPIA Section 505 and the proposed amendments to Section 5812.46 of the
213 *Ohio Revised Code* clarify that the trustee of a mandatory income trust may use distributions
214 from the pass-through entity to the extent necessary to pay the trust’s income taxes on its
215 allocable share of entity income and then distribute any remaining income to the mandatory
216 income beneficiary. These changes also “gross up” the income beneficiary’s distribution as
217 necessary to take into account the reduction of the trust’s taxes by reason of the distribution.
218

219 Accordingly, the Section Council recommends adoption of NCCUSL’s 2008
220 amendments.
221

222 **Text of the Proposal**

223 5812.32

226 (A) As used in this section:-

227
228 (1) ~~“payment”~~ “Payment” means a payment that a trustee may receive over a
229 fixed number of years or during the life of one or more individuals because of
230 services rendered or property transferred to the payer in exchange for future
231 payments. “Payment” includes a payment made in money or property from the
232 payer’s general assets or from a separate fund created by the payer. For
233 purposes of divisions (D), (E), (F) and (G) of this section, “payment” also
234 includes any payment from any separate fund, regardless of the reason for the
235 payment, including
236

237 (2) “Separate fund” includes a private or commercial annuity, an individual
238 retirement account, or a pension, profit-sharing, stock-bonus, or stock-
239 ownership plan.
240

241 (B) To the extent that a payment is characterized as interest, ~~or~~ a dividend or a payment

242 | made in lieu of interest or a dividend, a trustee shall allocate ~~it—the payment~~ to
243 | income. The trustee shall allocate to principal the balance of the payment and any
244 | other payment received in the same accounting period that is not characterized as
245 | interest, a dividend or an equivalent payment.
246 |

247 | (C) If no part of a payment is characterized as interest, a dividend, or an equivalent
248 | payment, and all or part of the payment is required to be made, a trustee shall allocate
249 | to income ten percent of the part that is required to be made during the accounting
250 | period and the balance to principal. If no part of a payment is required to be made or
251 | the payment received is the entire amount to which the trustee is entitled, the trustee
252 | shall allocate the entire payment to principal. For purposes of this division, a payment
253 | is not “required to be made” to the extent that it is made because the trustee exercises
254 | a right of withdrawal.
255 |

256 | ~~(D) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of~~
257 | ~~a payment to income than is provided for by this section, the trustee shall allocate to~~
258 | ~~income the additional amount necessary to obtain the marital deduction.~~
259 |

260 | (D) Except as otherwise provided in division (E) of this section, divisions (F) and (G) of
261 | this section apply, and divisions (B) and (C) of this section do not apply, in
262 | determining the allocation of a payment made from a separate fund to:

263 |
264 | (1) A trust for which an election to qualify for a marital deduction under Section
265 | 2056(b)(7) of the Internal Revenue Code of 1986, as amended, 26 U.S.C.
266 | Section 2056(b)(7), as amended, has been made; or
267 |

268 | (2) A trust that qualifies for the marital deduction under Section 2056(b)(5) of the
269 | Internal Revenue Code of 1986, as amended, 26 U.S.C. Section 2056(b)(5), as
270 | amended.
271 |

272 | (E) Divisions (D), (F), and (G) of this section do not apply if and to the extent that the
273 | series of payments would, without the application of division (D) of this section,
274 | qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue
275 | Code of 1986, as amended, 26 U.S.C. Section 2056(b)(7)(C), as amended.
276 |

277 | (F) A trustee shall determine the internal income of each separate fund for the accounting
278 | period as if the separate fund were a trust subject to the Uniform Principal and
279 | Income Act. Upon request of the surviving spouse, the trustee shall demand that the
280 | person administering the separate fund distribute the internal income to the trust. The
281 | trustee shall allocate a payment from the separate fund to income to the extent of the
282 | internal income of the separate fund and distribute that amount to the surviving
283 | spouse. The trustee shall allocate the balance of the payment to principal. Upon
284 | request of the surviving spouse, the trustee shall allocate principal to income to the
285 | extent the internal income of the separate fund exceeds payments made from the
286 | separate fund to the trust during the accounting period.

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(G) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent of the fund’s value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund’s value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under sSection 7520 of the Internal Revenue Code of 1986, as amended, 26 U.S.C. Section 7520, as amended, for the month preceding the accounting period for which the computation is made.

(EH) This section does not apply to ~~payments~~a payment to which Section 5812.33 of the *Ohio Revised Code* applies.

(I) This section applies to a trust described in division (D) of this section on and after the following dates:

(1) If the trust has not received a payment from a separate fund as of [insert the effective date of this amended section], the date of the decedent’s death.

(2) If the trust receives the first payment from any and all separate funds payable to the trust in the calendar year beginning January 1, _____ [insert the year in which amended section takes effect], the date of the decedent’s death.

(3) If the trust is not described in division (I)(1) or (2) of this section, January 1, _____ [insert the year in which amended section takes effect].

(4) For purposes of division (I) of this section, “decedent” shall mean the individual by reason of whose death the trust may receive a payment from the separate fund.

5812.46

(A) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(B) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(C) A tax required to be paid by a trustee on the trust’s share of an entity’s taxable income shall be paid ~~proportionately~~ as follows:

(1) From income, to the extent that receipts from the entity are allocated only to income;

(2) From principal, ~~as follows:-~~

- 333
334 (a) ~~To to~~ the extent that receipts from the entity are allocated only to principal;
335 ~~and-~~
336
337 (3) Proportionately from principal and income, to the extent that receipts from the
338 entity are allocated to both income and principal; and
339
340 (b4) From principal, to To the extent that the ~~trust's share of the entity's taxable~~
341 ~~income tax~~ exceeds the total receipts from the entity described in divisions
342 ~~(C)(1) and (2)(a) of this section.~~
343
344 (D) ~~For purposes of this section, receipts allocated to principal or income shall be reduced~~
345 ~~by the amount distributed to a beneficiary from principal or income for which the~~
346 ~~trust receives a deduction in calculating the tax.~~
347
348 (D) After applying divisions (A) through (C) of this section, the trustee shall adjust
349 income or principal receipts to the extent that the trust's taxes are reduced because the
350 trust receives a deduction for payments made to a beneficiary.
351

352 5812.51

- 353
354 (A) Sections 5812.01 to 5812.52 of the *Ohio Revised Code* may be cited as the “Uniform
355 Principal and Income Act ~~(1997)~~.”
356 (B) In applying and construing the “Uniform Principal and Income Act ~~(1997)~~”,
357 consideration shall be given to the need to promote uniformity of the law with respect
358 to its subject matter among states that enact the “Uniform Principal and Income Act
359 ~~(1997)~~”.

360
361 5815.23

362
363 * * *

- 364
365 (C) ~~(1) The trustee of a trust that qualifies for an estate tax marital deduction~~
366 ~~for federal or Ohio estate tax purposes and that is the beneficiary of an~~
367 ~~individual retirement account has a fiduciary duty, in regard to the income~~
368 ~~distribution provision of the trust, to withdraw and distribute the income of the~~
369 ~~individual retirement account, at least annually, to the surviving spouse of the~~
370 ~~testator or other settlor.~~
371
372 (2) ~~A trustee's fiduciary duty as described in division (C)(1) of this section is~~
373 ~~satisfied if the terms of the trust instrument expressly provide the surviving~~
374 ~~spouse a right to withdraw all of the assets from the trust or a right to compel~~
375 ~~the trustee to withdraw and distribute the income of the individual retirement~~
376 ~~account to the surviving spouse.~~
377
378 (D) Divisions (A), and (B), ~~and (C)(1)~~ of this section are intended to codify existing

379 fiduciary and trust law principles relating to the interpretation of a testator's or other
380 settlor's intent with respect to the income provisions of a trust. Divisions (A); and
381 (B); and (C) of this section apply to trust instruments executed prior to and existing
382 on October 1, 1996, or executed thereafter. The trustee of a trust described in division
383 (A) or (B) of this section, in a written trust amendment, may elect to not apply
384 divisions (A) and (B) of this section to the trust. Any election of that nature, when
385 made, is irrevocable.
386

387 **PROPOSAL F: TO AMEND OHIO LAW TO ALLOW FOR DELAYED**
388 **DISTRIBUTION OF CUSTODIAL PROPERTY BEYOND THE AGE OF 21.**

389 **Summary and Rationale for Proposal**

390
391 The Ohio Transfers to Minors Act (OTMA) currently provides for the distribution of
392 custodial property subject to the Act to the minor not later than the date the minor attains age
393 21. The Section Council proposes to amend the OTMA to allow for the custodianship to
394 continue until an age specified by the donor, not later than age 25.
395

396 **Text of the Proposal**

397
398 5814.01

399
400 * * *

401
402 (K) "Minor" means a person:
403
404 (1) Except as provided in division (K)(2) of this section, an individual who has
405 not attained the age of twenty-one years.
406
407 (2) When used with reference to the beneficiary for whose benefit custodial
408 property is held or is to be held, an individual who has not attained the age at
409 which the custodian is required under Section 5814.09 to transfer the custodial
410 property to the beneficiary.
411

412 5814.04

413
414 * * *

415
416 (D) (1) Except as provided in division (D)(2) of this section and in Section 5814.09,
417 to the extent that the custodial property is not so expended, the custodian shall
418 deliver or pay the custodial property over to the minor on the minor's attaining
419 the age of twenty-one years or, if the minor dies before attaining the age of
420 twenty-one years, shall, upon the minor's death, deliver or pay the custodial
421 property over to the estate of the minor.
422
423 (2) If the donor or transferor, in the written instrument that makes or provides for

424 the gift or transfer, directs the custodian to deliver or pay over the custodial
425 property to the minor on the minor's attaining any age between eighteen and
426 twenty-one, the custodian shall deliver or pay over the custodial property to
427 the minor on the minor's attaining that age, or, if the minor dies before
428 attaining that age, the custodian shall, upon the minor's death, deliver or pay
429 the custodial property over to the estate of the minor.

430
431 5814.09

432
433 (A) Subject to the requirements and limitations of this section, the time for delivery to the
434 minor of custodial property transferred under or pursuant to 5814.02(A) may be
435 delayed until a specified time after the minor attains the age of twenty-one years,
436 which time shall be specified in the written instrument that makes or provides for the
437 gift or transfer pursuant to 5814.02(A)(1) through (9).

438
439 (B) To specify a delayed time for delivery to the minor of the custodial property the
440 words "as custodian for . . . (name of minor) until age . . . (age of delivery of
441 property to minor) under the Ohio Transfers to Minors Act," shall be substituted in
442 substance for the words "as custodian for . . . (name of minor) under the Ohio
443 Transfers to Minors Act."

444
445 (C) The time for delivery to the minor of custodial property transferred under a will, trust
446 instrument or irrevocable exercise of a testamentary power of appointment may be
447 delayed under this section only if the governing will, trust or exercise of the power of
448 appointment provides in substance that the custodianship is to continue until the time
449 the minor attains a specified age, which time shall not be later than the date the minor
450 attains the age of twenty-five years.

451
452 (D) If the custodial property is transferred by inter vivos gift and the time for delivery of
453 the custodial property to the minor is delayed beyond the time the minor attains the
454 age of twenty-one years, the custodian, nevertheless, shall deliver the custodial
455 property to the minor if requested in writing by the minor within sixty days of the
456 minor attaining the age of twenty-one years, unless the donor, in the written
457 instrument of transfer pursuant to 5814.02(A)(1) through (9), provides that the
458 custodial property may not be delivered to the minor prior to attaining the specified
459 age of delivery, which time shall not be later than the date the minor attains the age of
460 twenty-five years.

461
462 (E) If the time for delivery to the minor of custodial property is delayed until a specified
463 time after the minor attains twenty-one years of age, and the minor dies prior to
464 attaining that age, the custodian shall, upon the minor's death, deliver the custodial
465 property to the estate of the minor.

466
467 (F) A custodian may not co-mingle the assets of custodial property that have different
468 delivery dates.

470 | [5814.095814.10](#)

471

472 | (A) Sections 5814.01 to [5814.09-5814.10](#) of the *Ohio Revised Code* shall be construed to
473 effectuate their general purpose to make uniform the law of those states that enact
474 similar provisions.

475

476 | (B) Sections 5814.01 to [5814.09-5814.10](#) of the *Ohio Revised Code* shall not be construed
477 as providing an exclusive method for making gifts or transfers to minors.

478

479 | (C) Nothing in sections 5814.01 to [5814.09-5814.10](#) of the *Ohio Revised Code*, shall
480 affect gifts made under former sections 1339.19 to 1339.28 of the *Ohio Revised Code*,
481 nor the powers, duties, and immunities conferred by gifts in such manner upon
482 custodians and persons dealing with custodians. Sections 5814.01 to [5814.09-5814.10](#)
483 of the *Ohio Revised Code* henceforth apply, however, to all gifts made in a manner
484 and form prescribed in former sections 1339.19 to 1339.28 of the *Ohio Revised Code*,
485 except insofar as the application impairs constitutionally vested rights. Sections
486 5814.01 to [5814.09-5814.10](#) of the *Ohio Revised Code* shall be construed as a
487 continuation of the provisions of former sections 1339.19 to 1339.28 of the *Ohio*
488 *Revised Code*, according to the language employed, and not as a new enactment.

489

490 | (D) Nothing in sections 5814.01 to [5814.09-5814.10](#) of the *Ohio Revised Code*, as of May
491 7, 1986, shall affect gifts made under those sections as they existed prior to May 7,
492 1986, or the powers, duties and immunities conferred by the gifts in any manner upon
493 custodians and persons dealing with custodians. Sections 5814.01 to [5814.10 5814.09](#)
494 of the *Ohio Revised Code*, as of May 7, 1986, hereafter apply to all gifts made in a
495 manner and form prescribed in those sections as they existed prior to May 7, 1986,
496 except to the extent that the application of those sections, as of May 7, 1986, would
497 impair constitutionally vested rights.

498

499 **PROPOSAL G: TO AMEND OHIO LAW TO CLARIFY THAT DONORS,**
500 **TRANSFERORS, EXECUTORS, TRUSTEES, ADMINISTRATORS, CURRENTLY**
501 **SERVING CUSTODIANS AND THE LEGAL REPRESENTATIVE OF A**
502 **DECEASED CUSTODIAN MAY DESIGNATE ONE OR MORE SUCCESSOR**
503 **CUSTODIANS UNDER THE OHIO TRANSFERS TO MINORS ACT, IF A**
504 **SUCCESSOR CUSTODIAN IS NOT ALREADY NAMED.**

505

506 **Summary and Rationale for Proposal**

507

508 There are occasions when there is no named successor custodian under the Ohio
509 Transfers to Minors Act (OTMA) or a named successor custodian has died, is incompetent,
510 or is unwilling to serve. The current OTMA is silent on who has the authority to name a
511 successor custodian in the event of such a vacancy. The Section Council proposes to amend
512 certain sections of Chapter 5814 to provide for the designation of a successor custodian and
513 the manner in which it should be done.

514

515 **Test of the Proposal**

516
517 5814.02

518
519 * * *

520
521 (F) Except with respect to real property, a donor or transferor who makes a gift or
522 transfer to a minor in a manner prescribed in division (A) of this section and a trustee,
523 executor or administrator acting under division (B) or (E) of this section may also
524 designate one or more successor custodians, in substance, by adding to such
525 designation the following words or words of similar import for the successor or
526 successors designated: "In the event of the death, inability or unwillingness to serve
527 of (name of custodian), or any successor custodian designated
528 hereby, (name of first successor custodian), followed by
529 (name of second successor custodian), in the order named,
530 shall serve as successor custodian."

531
532 5814.04

533
534 * * *

535
536 (G) The custodian shall register each security that is custodial property and in registered
537 form in the name of the custodian, followed, in substance, by the words: "as custodian
538 for (name of minor) under the Ohio Transfers to Minors Act," or shall
539 maintain each security that is custodial property and in registered form in an account
540 with a broker or in a financial institution in the name of the custodian, followed, in
541 substance, by the words: "as custodian for (name of minor) under the Ohio
542 Transfers to Minors Act." A security held in account with a broker or in a financial
543 institution in the name of the custodian may be held in the name of the broker or
544 financial institution. A security that is custodial property and in registered form and
545 that is held by a broker or in a financial institution in which the broker or financial
546 institution does not have a lien for indebtedness due to it from a custodial account
547 may not be pledged, lent, hypothecated or disposed of except upon the specific
548 instructions of the custodian. The custodian shall hold all money that is custodial
549 property in an account with a broker or in a financial institution in the name of the
550 custodian, followed, in substance, by the words: "as custodian for (name of
551 minor) under the Ohio Transfers to Minors Act." The custodian shall hold all life or
552 endowment insurance policies, annuity contracts, or benefit plans that are custodial
553 property in the name of the custodian, followed, in substance, by the words "as
554 custodian for (name of minor) under the Ohio Transfers to Minors Act."
555 The custodian shall take title to all real estate that is custodial property in the name of
556 the custodian, followed, in substance, by the words: "as custodian for (name
557 of minor) under the Ohio Transfers to Minors Act." In the event one or more
558 successor custodians have been designated by the donor or transferor pursuant to
559 division (F) of Section 5814.02 of the *Ohio Revised Code* or by the custodian
560 pursuant to division (E) of sSection 5814.07 of the *Ohio Revised Code*, each

561 | registration in the name of the custodian set forth in this division (G) shall include
562 | such designation of successor custodian or custodians. The custodian shall keep all
563 | other custodial property separate and distinct from the custodian's own property in a
564 | manner to identify it clearly as custodial property.

565 |
566 | 5814.07

567 |
568 | * * *

569 |
570 | (E) A custodian may designate one or more successor custodians by transferring the
571 | property of any type mentioned in division (A) of Section 5814.02 of the R *Ohio*
572 | *Revised Code* other than real estate in the manner and form provided in that division,
573 | to himself or herself as custodian, followed by the designation of the successor
574 | custodian or custodians in the manner and form provided in division (F) of Section
575 | 5814.02 of the *Ohio Revised Code*. A custodian may designate one or more successor
576 | custodians of real property by designating the successor custodian or custodians in the
577 | manner and form provided in sections 5302.22 through 5302.23 of the *Ohio Revised*
578 | *Code*. A designation of a successor custodian or custodians by the custodian shall
579 | replace any previous designation of successor custodians by the donor, transferor or
580 | previous custodian.

581 |
582 | (EF) If no eligible successor custodian is designated by the donor or transferor pursuant to
583 | division (F) of Section 5814.02 or in the donor's or transferor's will or trust, or by the
584 | custodian in the custodian's will, ~~or if the custodian dies intestate pursuant to division~~
585 | ~~(D) of the section or by transfer pursuant to division (E) of this section, the legal~~
586 | ~~representative of a custodian who is deceased~~ or is adjudged to be an incompetent by
587 | a court, ~~the legal representative of the custodian~~ may designate a successor custodian.
588 | If the court in which the estate or guardianship proceedings relative to the custodian
589 | are pending approves the designation, the designation shall be regarded as having
590 | been effective as of the date of the death of the custodian or as of the date the
591 | custodian was adjudged to be an incompetent. Upon the approval of the court, the
592 | legal representative of the custodian shall cause the custodial property to be
593 | transferred or registered in the name of the successor custodian as provided in
594 | divisions (D)(1) to (3) of this section.

595 |
596 | **PROPOSAL H: TO AMEND OHIO LAW TO INCREASE THE MINIMUM VALUE**
597 | **OF PROPERTY ABOVE WHICH COURT APPROVAL IS NECESSARY FOR A**
598 | **FIDUCIARY TO MAKE A TRANSFER COVERED BY THE OHIO TRANSFERS**
599 | **TO MINORS ACT WHEN THERE IS NO GOVERNING INSTRUMENT OR THE**
600 | **GOVERNING INSTRUMENT IS SILENT.**

601 |
602 | **Summary and Rationale for Proposal**

603 |
604 | Currently, the creation of a guardianship that is not otherwise authorized by a will,
605 | trust or other governing instrument is authorized if certain conditions are met, and court
606 | approval is necessary if the value of the custodial property exceeds \$10,000. The Ohio

607 guardianship statute allows a guardianship to be terminated if the entire assets of the ward do
608 not exceed \$25,000. The Section Council proposes that the threshold requirement for court
609 approval of the creation of a custodianship under the Ohio Transfers to Minors Act be
610 increased from \$10,000 to \$25,000, to coordinate with the guardianship statute.

611

612 **Text of the Proposal**

613

614 5814.02

615

616 * * *

617

618 (E)

619

620 * * *

621

622 | (3) If the value of the property exceeds ~~ten~~twenty-five thousand dollars, the
623 transfer is authorized by the appropriate court.

624 **REPORT OF THE FAMILY LAW COMMITTEE**

625
626 *To the Council of Delegates:*

627
628 The Family Law Committee hereby respectfully requests your favorable
629 consideration of the following legislative proposal which may be summarized as follows:

630
631 To amend §§3109.04 and 3109.051 of the *Ohio Revised Code* to guide juvenile courts
632 in custody and parenting time disputes between unwed parents.

633
634 Respectfully submitted,

635
636 Susan S. Donofrio, Columbus
637 Chair, Family Law Committee

638
639 **Summary and Rationale for Proposal**

640
641 Pursuant to ORC 2151.23 (F) juvenile courts are re-quired to follow Section 3109
642 when dealing with unwed parents. Section 3109 was written for domestic relations courts;
643 therefore the language contained in the section needs to be compatible with its application to
644 juvenile cases involving unwed parents.

645
646 **Text of the Proposal**

647
648 3109.04 Allocating parental rights and responsibilities for care of children - shared parenting.

649
650 (A) In any divorce, legal separation, or annulment proceeding and in any Domestic
651 Relations or Juvenile Court case between the parents of a child ~~proceeding~~ pertaining to the
652 allocation of parental rights and responsibilities for the care of a child, upon hearing the
653 testimony of either or both parents and considering any mediation report filed pursuant to
654 Section 3109.052 of the *Ohio Revised Code* and in accordance with sections 3127.01 to
655 3127.53 of the *Ohio Revised Code*, the court shall allocate the parental rights and
656 responsibilities for the care of the minor children of the parties-marriage. Subject to division
657 (D)(2) of this section, the court may allocate the parental rights and responsibilities for the
658 care of the children in either of the following ways:

659
660 3109.051 Parenting time - companionship or visitation rights.

661
662 (A) In any Domestic Relations or Juvenile Court case between the parents of a child,
663 ~~If a divorce, dissolution, legal separation, or annulment proceeding involves a child and~~ if the
664 court has not issued a shared parenting decree, the court shall consider any mediation report
665 filed pursuant to Section 3109.052 of the *Ohio Revised Code* and, in accordance with
666 division (C) of this section, shall make a just and reasonable order or decree permitting each
667 parent who is not the residential parent to have parenting time with the child at the time and
668 under the conditions that the court directs, unless the court determines that it would not be in
669 the best interest of the child to permit that parent to have parenting time with the child and

670 includes in the journal its findings of fact and conclusions of law. Whenever possible, the
671 order or decree permitting the parenting time shall ensure the opportunity for both parents to
672 have frequent and continuing contact with the child, unless frequent and continuing contact
673 by either parent with the child would not be in the best interest of the child. The court shall
674 include in its final decree a specific schedule of parenting time for that parent. Except as
675 provided in division (E)(6) of Section 3113.31 of the *Ohio Revised Code*, if the court,
676 pursuant to this section, grants parenting time to a parent or companionship or visitation
677 rights to any other person with respect to any child, it shall not require the public children
678 services agency to provide supervision of or other services related to that parent's exercise of
679 parenting time or that person's exercise of companionship or visitation rights with respect to
680 the child. This section does not limit the power of a juvenile court pursuant to Chapter 2151
681 of the *Ohio Revised Code* to issue orders with respect to children who are alleged to be
682 abused, neglected or dependent children or to make dispositions of children who are
683 adjudicated abused, neglected or dependent children or of a common pleas court to issue
684 orders pursuant to Section 3113.31 of the *Ohio Revised Code*.

685 **REPORT OF THE REAL PROPERTY SECTION**

686

687 *To the Council of Delegates:*

688

689 The Real Property Section hereby respectfully requests your favorable consideration

690 of the following legislative proposal, which may be summarized as follows:

691

692 To amend sections 323.47, 1303.16, 1303.38, 2303.26, 2329.01, 2329.151, 2329.17,

693 2329.18,2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 2329.30, 2329.31,

694 2329.33, 2329.34, 2329.39, 2329.52, 2329.56, 2909.07, 5302.01, 5721.371, and 5721.39 and

695 to enact sections 2308.01, 2308.02, 2308.03, 2308.04, 2329.152, 2329.153, 2329.154,

696 2329.211, 2329.311, 2329.312, 5302.31, 5721.372, and 5721.373 of the *Ohio Revised Code*

697 to establish expedited actions to foreclose mortgages on vacant and abandoned residential

698 properties, to permit private selling officers to conduct judicial sales of real property, to state

699 the intent of the General Assembly on the relationship of state and local laws regarding

700 mortgage foreclosure actions, to revise the Commercial Paper Law relating to mortgages and

701 lost instruments, and to make other changes relative to foreclosure actions.

702

703 Respectfully submitted,

704

705

John I. Cadwallader, Columbus

706

Chair of the Real Property Section

707

708 **Summary and Rationale for the Proposal**

709

710 As you know, the foreclosure system was overtaxed during the great recession.

711 Several bills have been introduced in the Ohio legislature to address various components of

712 the problem. At the beginning of 2015, Senator William Coley asked the OSBA to take a

713 comprehensive look at the foreclosure process in Ohio and to make suggestions. The

714 following bill is the product of more than 10 months of work on the subject. In addition to

715 the Real Property Section, the Banking, Commercial and Bankruptcy Law Committee has

716 also approved the proposal.

717

718

719

720 **Text of Proposal**

721 **L_131_1005-6**

722

723 **131st General Assembly**

724 **Regular Session**

. B. No.

725

726 **2015-2016**

727

728

729

730

731 **A BILL**

732

733 To amend sections 323.47, 1303.16, 1303.38, 2303.26,

734 2329.01, 2329.151, 2329.17, 2329.18, 2329.19,

735 2329.20, 2329.21, 2329.26, 2329.271, 2329.28,

736 2329.30, 2329.31, 2329.33, 2329.34, 2329.39,

737 2329.52, 2329.56, 2909.07, 5302.01, 5721.371,

738 and 5721.39 and to enact sections 2308.01,

739 2308.02, 2308.03, 2308.04, 2329.152, 2329.153,

740 2329.154, 2329.211, 2329.311, 2329.312, 5302.31,

741 5721.372, and 5721.373 of the Revised Code to

742 establish expedited actions to foreclose

743 mortgages on vacant and abandoned residential

744 properties, to permit private selling officers

745 to conduct judicial sales of real property, to

746 state the intent of the General Assembly on the

747 relationship of state and local laws regarding

748 mortgage foreclosure actions, to revise the

749 Commercial Paper Law relating to mortgages and

750 lost instruments, and to make other changes

751 relative to foreclosure actions.

752

753 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

754 **Section 1.** That sections 323.47, 1303.16, 1303.38, 2303.26, 2329.01, 2329.151,

755 2329.17, 2329.18, 2329.19, 2329.20, 2329.21, 2329.26, 2329.271, 2329.28, 2329.30,

756 2329.31, 2329.33, 2329.34, 2329.39, 2329.52, 2329.56, 2909.07, 5302.01, 5721.371, and

757 5721.39 be amended and sections 2308.01, 2308.02, 2308.03, 2308.04, 2329.152, 2329.153,

758 2329.154, 2329.211, 2329.311, 2329.312, 5302.31, 5721.372, and 5721.373 of the Revised

759 Code be enacted to read as follows:

760 **Sec. 323.47.** (A) If land held by tenants in common is sold upon proceedings in
761 partition, or taken by the election of any of the parties to such proceedings, or real estate is
762 sold by administrators, executors, guardians, or trustees, the court shall order that the taxes,
763 penalties, and installments of assessments then due and payable to the county treasurer, and
764 ~~interest on those taxes, penalties, and assessments, that are or will be a lien on such land or~~
765 ~~real estate at the time the deed is transferred following as reflected on the tax list in the office~~
766 of the auditor of the county in which the real estate is situated on the date of the sale or
767 election, be discharged out of the proceeds of such sale or election. ~~For purposes of~~
768 ~~determining such amount, the county treasurer shall estimate the amount of taxes,~~
769 ~~assessments, interest, and penalties that will be payable at the time the deed of the property is~~
770 ~~transferred to the purchaser. If the county treasurer's estimate exceeds the amount of taxes,~~
771 ~~assessments, interest, and penalties actually payable when the deed is transferred to the~~
772 ~~purchaser, the officer who conducted the sale shall refund to the purchaser the difference~~
773 ~~between the estimate and the amount actually payable. If the amount of taxes, assessments,~~
774 ~~interest, and penalties actually payable when the deed is transferred to the purchaser exceeds~~
775 ~~the county treasurer's estimate, the officer shall certify the amount of the excess to the~~
776 ~~treasurer, who shall enter that amount on the real and public utility property tax duplicate~~
777 ~~opposite the property; the amount of the excess shall be payable at the next succeeding date~~
778 ~~prescribed for payment of taxes in section 323.12 of the Revised Code. The purchaser of the~~
779 land or the electing party in the case of partition, or its successors and assigns as the owner of
780 the land, shall be responsible for paying all real estate taxes, penalties, and installments of
781 assessments as determined by the county auditor after the date of the sale or election,

782 notwithstanding that such taxes, penalties, and installments of assessments relate to periods
783 prior to the date of the sale or election.

784 (B)(1) Except as provided in division (B) (3) of this section, if real estate is sold at
785 judicial sale, the court shall order that the ~~total of the following amounts shall~~ taxes,
786 penalties, and installments of assessments then due and payable to the county treasurer, as
787 reflected on the tax list in the office of the auditor of the county in which the real estate is
788 situated on the date of the sale, be discharged out of the proceeds of the sale, but only to the
789 extent of ~~such~~ those proceeds:—

790 (a) ~~Taxes and assessments the lien for which attaches before the confirmation of sale~~
791 ~~but that are not yet determined, assessed, and levied for the year in which confirmation~~
792 ~~occurs, apportioned pro rata to the part of that year that precedes confirmation, and any~~
793 ~~penalties and~~ (b) ~~All other taxes, assessments, penalties, and interest the lien for which~~
794 ~~attached for a prior tax year but that have not been paid on or before the date of confirmation.~~

795 (2) ~~Upon the request of the officer who conducted the sale, the county treasurer shall~~
796 ~~estimate the amount in division (B)(1)(a) of this section. If the county treasurer's estimate~~
797 ~~exceeds that amount, the officer who conducted the sale shall refund to the purchaser the~~
798 ~~difference between the estimate and the actual amount. If the actual amount exceeds the~~
799 ~~county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer,~~
800 ~~who shall enter that amount on the real and public utility property tax duplicate opposite the~~
801 ~~property; the amount of the excess shall be payable at the next succeeding date prescribed for~~
802 ~~payment of taxes in section 323.12 of the Revised Code. At the next succeeding date~~
803 prescribed for payment of taxes in section 323.12 of the Revised Code, the purchaser of the
804 real estate at the sale or the purchaser's successors and assigns as the owner of the real estate,

805 shall be responsible for paying all taxes and installments of assessments, the lien for which
806 attaches before the date of sale but that are not yet determined, assessed, and levied for the
807 year in which the sale occurs, and any penalties and interests on those taxes and assessments;
808 notwithstanding that such taxes, assessments, penalties, and interest relate to periods prior to
809 the date of the sale.

810 (3) The amounts described in division (B)(1) of this section shall not be discharged
811 out of the proceeds of a judicial sale, but shall instead be deemed to be satisfied and
812 extinguished upon confirmation of sale, if both of the following conditions apply:

813 (a) The real estate is sold pursuant to a foreclosure proceeding other than a tax
814 foreclosure proceeding initiated by the county treasurer under section 323.25, sections 323.65
815 to 323.79, or Chapter 5721. of the Revised Code.

816 (b) A county land reutilization corporation organized under Chapter 1724. of the
817 Revised Code is both the purchaser of the real estate and the judgment creditor or assignee of
818 all rights, title, and interest in the judgment arising from the foreclosure proceeding.

819 **Sec. 1303.16.** (A)(1) Except as provided in division (E) of this section, an action to enforce
820 the obligation of a party to pay a note payable at a definite time shall be brought within six
821 years after the due date or dates stated in the note or, if a due date is accelerated, within six
822 years after the accelerated due date, unless the note is secured by a mortgage in which case
823 division (A)(2) of this section applies.

824 (2) If the note is secured by a mortgage, an action to enforce the obligation to pay that
825 note and foreclose the mortgage shall be brought within twenty-one years after the due date
826 or dates stated in the note or, if a due date is accelerated, within twenty-one years after the
827 accelerated due date.

828 (B) Except as provided in division (D) or (E) of this section, if demand for payment is
829 made to the maker of a note payable on demand, an action to enforce the obligation of a party
830 to pay the note shall be brought within six years after the date on which the demand for
831 payment is made. If no demand for payment is made to the maker of a note payable on
832 demand, an action to enforce the note is barred if neither principal nor interest on the note has
833 been paid for a continuous period of ten years.

834 (C) Except as provided in division (D) of this section, an action to enforce the
835 obligation of a party to an unaccepted draft to pay the draft shall be brought within three
836 years after dishonor of the draft or ten years after the date of the draft, whichever period
837 expires first.

838 (D) An action to enforce the obligation of the acceptor of a certified check or the
839 issuer of a teller's check, cashier's check, or traveler's check shall be brought within three
840 years after demand for payment is made to the acceptor or issuer.

841 (E) An action to enforce the obligation of a party to a certificate of deposit to pay the
842 instrument shall be brought within six years after demand for payment is made to the maker,
843 but if the instrument states a due date and the maker is not required to pay before that date,
844 the six-year period begins when a demand for payment is in effect and the due date has
845 passed.

846 (F) An action to enforce the obligation of a party to pay an accepted draft, other than
847 a certified check, shall be brought within six years after the due date or dates stated in the
848 draft or acceptance if the obligation of the acceptor is payable at a definite time or within six
849 years after the date of the acceptance if the obligation of the acceptor is payable on demand.

850 (G) Unless governed by other law regarding claims for indemnity or contribution,

851 any of the following actions shall be brought within three years after the cause of action
852 accrues:

853 (1) An action for conversion of an instrument, an action for money had and received,
854 or a similar action based on conversion;

855 (2) An action for breach of warranty;

856 (3) An action to enforce an obligation, duty, or right arising under this chapter and not
857 governed by this section.

858 **Sec. 1303.38.** (A) A person not in possession of an instrument is entitled to enforce
859 the instrument if all of the following apply:

860 (1) The person seeking to enforce the instrument was ~~it~~ entitled to enforce the
861 instrument when loss of possession occurred or has directly or indirectly acquired ownership
862 of the instrument and from a person who was entitled to enforce ~~it~~ the instrument when loss
863 of possession occurred.

864 (2) The loss of possession was not the result of a transfer by the person or a lawful
865 seizure.

866 (3) The person cannot reasonably obtain ~~possession~~ possession of the instrument
867 because the instrument was destroyed, its whereabouts cannot be determined, or it is in the
868 wrongful possession of an unknown person or a person that cannot be found or is not
869 amenable to service of process.

870 (B) A person seeking enforcement of an instrument under division (A) of this section
871 must prove the terms of the instrument and the person's right to enforce the instrument. If that
872 proof is made, divisions (A) and (B) of section 1303.36 of the Revised Code applies to the
873 case as if the person seeking enforcement had produced the instrument. The court may not

874 enter judgment in favor of the person seeking enforcement unless it finds that the person
875 required to pay the instrument is adequately protected against loss that might occur by reason
876 of a claim by another person to enforce the instrument. Adequate protection for the person
877 required to pay the instrument may be provided by any reasonable means.

878 **Sec. 2303.26.** The clerk of the court of common pleas shall exercise the powers
879 conferred and perform the duties enjoined upon ~~him~~ the clerk by statute and by the common
880 law; and in the performance of ~~his~~ official duties ~~he~~ the clerk shall be under the direction of
881 ~~his~~ the court. The clerk shall not restrict, prohibit, or otherwise modify the rights of parties to
882 seek service on party defendants allowed by the Rules of Civil Procedure, either singularly
883 or concurrently.

884 **Sec. 2308.01.** As used in this chapter:

885 (A) "Manufactured home" has the same meaning as in section 3781.06 of the Revised
886 Code.

887 (B) "Mobile home" has the same meaning as in section 4501.01 of the Revised Code.

888 (C) "Residential condominium unit" means a "residential unit" as defined in section
889 5311.01 of the Revised Code.

890 (D) "Residential mortgage loan" means a loan or agreement to extend credit,
891 including the renewal, refinancing, or modification of such a loan or agreement, that is made
892 to a person and that is primarily secured by a mortgage, deed of trust, or other lien upon any
893 interest in residential property or any certification of stock or other evidence of ownership in,
894 and a proprietary lease from, a corporation or partnership formed for the purpose of
895 cooperative ownership of residential property.

896 (E) "Residential property" means real property located within this state consisting of
897 land and a structure on that land containing four or fewer dwelling units, each of which is
898 intended for occupancy by a separate household. "Residential property" includes a
899 residential condominium unit, notwithstanding the number of units in the structure, but
900 includes a manufactured or mobile home only if it is taxed as real property.

901 **Sec. 2308.02.** (A) A mortgagee who files a foreclosure action on a residential
902 property may file a motion with the court to proceed in an expedited manner under this
903 section on the basis that the property is vacant and abandoned. In order to proceed in an
904 expedited manner, upon commencement of the foreclosure action, the mortgagee must be a
905 person entitled to enforce the instrument secured by the mortgage under division (A)(1) or
906 (2) of section 1303.31 of the Revised Code or a person with the right to enforce the
907 obligation secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised
908 Code.

909 (B) If a motion to proceed in an expedited manner is filed before the last answer
910 period has expired, the court shall decide the motion not later than twenty-one days, or within
911 the time consistent with the local rules, after the last answer period has expired. If a motion
912 to proceed in an expedited manner is filed after the last answer period has expired, the court
913 shall decide the motion not later than twenty-one days, or within the time consistent with
914 local rules, after the motion is filed.

915 (C) In deciding the motion to proceed in an expedited manner, the court shall deem
916 the property to be vacant and abandoned if all of the following apply:

917 (1) The court finds by a preponderance of the evidence that the residential mortgage
918 loan is in monetary default.

919 (2) The court finds by a preponderance of the evidence that the mortgagee is a person
920 entitled to enforce the instrument secured by the mortgage under division (A)(1) or (2) of
921 section 1303.31 of the Revised Code or a person with the right to enforce the obligation
922 secured by the mortgage pursuant to law outside of Chapter 1303. of the Revised Code.

923 (3) The court finds by clear and convincing evidence that at least three of the
924 following factors are true:

925 (a) Gas, electric, sewer, or water utility services to the property have been
926 disconnected.

927 (b) Windows or entrances to the property are boarded up or closed off, or multiple
928 window panes are broken and unrepaired.

929 (c) Doors on the property are smashed through, broken off, unhinged, or continuously
930 unlocked.

931 (d) Junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials
932 have accumulated on the property.

933 (e) Furnishings, window treatments, or personal items are absent from the structure
934 on the land.

935 (f) The property is the object of vandalism, loitering, or criminal conduct, or there
936 has been physical destruction or deterioration of the property.

937 (g) A mortgagor has made a written statement expressing the intention of all
938 mortgagors to abandon the property.

939 (h) Neither an owner nor a tenant appears to be residing in the property at the time of
940 an inspection of the property by the appropriate official of a county, municipal corporation,
941 or township in which the property is located or by the mortgagee.

942 (i) Government employees provide written statements indicating that the structure on
943 the land is vacant and abandoned.

944 (j) The property is sealed because, immediately prior to being sealed, it was
945 considered by an appropriate official to be open, vacant, or vandalized.

946 (k) Other reasonable indicia of abandonment exist.

947 (4) No mortgagor or other defendant has filed an answer or objection setting forth a
948 defense or objection that, if proven, would preclude the entry of a final judgment and decree
949 of foreclosure.

950 (5) No mortgagor or other defendant has filed a written statement with the court
951 indicating that the property is not vacant and abandoned.

952 (D) If the court decides that the property is vacant and abandoned and that the
953 mortgagee who filed the motion to proceed in an expedited manner is entitled to judgment,
954 the court shall enter a final judgment and decree of foreclosure and order the property to be
955 sold in accordance with division (E) of this section. If the court does not decide that the
956 property is vacant and abandoned, the seventy-five-day deadline established in division (E)
957 of this section shall not apply to the sale of the property.

958 (E) If the court decides that the property is vacant and abandoned and enters a final
959 judgment and decree of foreclosure under division (D) of this section, the property shall be
960 offered for sale not later than seventy-five days after the issuance of the order of sale. The
961 sale of the property shall be conducted in accordance with the requirements in Chapter 2329.
962 of the Revised Code, including possible postponement of the sale pursuant to division (C) of
963 section 2329.152 of the Revised Code.

964 (F) Nothing in this section shall supersede or limit other procedures adopted by the

965 court to resolve the residential mortgage loan foreclosure action, including foreclosure
966 mediation.

967 **Sec. 2308.03.** (A) Except as otherwise provided in division (B) of this section, if a
968 residential property is found to be vacant and abandoned under section 2308.02 of the
969 Revised Code, a mortgagee on the residential property may enter that property to secure and
970 protect it from damage.

971 (B) A mortgagee that has not filed a residential mortgage loan foreclosure action on a
972 property for which the mortgagee holds a mortgage may enter and secure that property only
973 if the mortgage contract or other documents provide for such an entry.

974 (C) The equitable and statutory rights to redemption of a mortgage on a property
975 found to be vacant and abandoned pursuant to section 2308.02 of the Revised Code expire
976 upon the confirmation of sale of the property.

977 **Sec. 2308.04.** A person who is an owner of residential property who knowingly
978 moves, defaces, damages, destroys, or otherwise improperly tampers with the person's own
979 real property subject to the mortgage after the person has been served with a summons and
980 complaint in a pending residential mortgage loan foreclosure action, including the time
981 between judgment entry and confirmation of sale, relating to that real property is guilty of
982 criminal mischief in violation of division (A)(1) of section 2909.07 of the Revised Code.

983 **Sec. 2329.01.** (A) Lands and tenements, including vested legal interests therein,
984 permanent leasehold estates renewable forever, and goods and chattels, not exempt by law,
985 shall be subject to the payment of debts, and liable to be taken on execution and sold as
986 provided in sections 2329.02 to 2329.61 inclusive, of the Revised Code.

987 (B) As used in sections 2329.02 to 2329.61 of the Revised Code:

988 (1) "Commercial property" means any property that is not residential property.

989 (2) "Private selling officer" means a resident of this state licensed as both an
990 auctioneer under Chapter 4707. of the Revised Code and as a real estate broker or real estate
991 salesperson under Chapter 4735. of the Revised Code.

992 (3) "Residential mortgage loan" and "residential property" have the same meanings as
993 in section 2308.01 of the Revised Code.

994 **Sec. 2329.151.** ~~All~~ Except as provided in sections 2329.152 to 2329.154 of the
995 Revised Code, all public auctions of goods, chattels, or lands levied upon by execution shall
996 be conducted personally by ~~an~~ one of the following:

997 (A) An officer of the court ~~or by~~;

998 (B) For the public auction of goods and chattels, a resident of this state licensed as an
999 auctioneer under Chapter 4707. of the Revised Code;

1000 (C) For the public auction of lands, a ~~an~~ auctioneer licensed under Chapter 4707. of the
1001 Revised Code private selling officer.

1002 **Sec. 2329.152.** (A) In every action demanding the judicial or execution sale of real
1003 estate, the judgment creditor may elect that the real estate be sold at public auction by a
1004 specified private selling officer. The judgment creditor shall make this election, after the
1005 court grants a decree of foreclosure, by filing with the clerk of the court a praecipe
1006 requesting the issuance of an order of appraisal to the sheriff and an order of sale to the
1007 private selling officer identified in the praecipe. Upon the filing of that praecipe, the clerk of
1008 the court shall immediately issue both of the following:

1009 (1) An order of appraisal to the sheriff, who shall obtain an appraisal of the real estate
1010 in conformity with sections 2329.17 and 2329.18 of the Revised Code;

1011 (2) An order of sale to the private selling officer, who, after the return or
1012 determination of the appraisal, shall advertise and sell the real estate in conformity with
1013 applicable provisions of sections 2329.01 to 2329.61 of the Revised Code.

1014 (B) If the sale of the real estate is conducted at a physical location and not online,
1015 then judgment creditors and lienholders who were a party to the action shall have the right to
1016 submit to the sheriff or the private selling officer written bids via facsimile, electronic mail,
1017 or overnight delivery or courier. Prior to the sale, the sheriff or the private selling officer
1018 shall confirm receipt of such bids to the judgment creditor or lienholder by sending notice of
1019 such receipt via facsimile or electronic mail to the judgment creditor or lienholder. During
1020 the sale, the sheriff or the private selling officer shall place such bids on behalf of the
1021 judgment creditor or lienholder. After the sale, the sheriff or the private selling officer shall
1022 provide notice of the results of the sale not later than the close of business on the day of the
1023 sale to all judgment creditors and lienholders who submitted written bids to the sheriff or the
1024 private selling officer. Such notice shall be sent via facsimile or electronic mail to the
1025 judgment creditor or lienholder or by posting the results of the sale on a public web site.

1026 (C) A judgment creditor that elects that real estate be sold at public auction by a
1027 private selling officer pursuant to division (A) of this section may instruct the private selling
1028 officer to postpone the sale of the real estate one or more times for up to one hundred eighty
1029 days after the initial date for which sale is set. If more than one hundred eighty days have
1030 elapsed from the initial date for which sale was set, the judgment creditor shall have no right
1031 to any further postponement of the sale and the initial date for which sale was set shall be
1032 void. Upon receiving such instruction for postponement, the private selling officer shall
1033 postpone the sale by announcing at the public auction that the sale is postponed and the date,

1034 time, and location of the new sale. If the sale is online, the private selling officer shall post
1035 this announcement on the web site through which the sale was to be conducted. This
1036 announcement shall serve as notice of the subsequent sale.

1037 (D)(1) If the judgment creditor elects to have the real estate sold by a private selling
1038 officer, then:

1039 (a) The cost of the appraisal required by section 2329.17 of the Revised Code shall be
1040 taxed as costs in the case.

1041 (b) The cost of the advertisement required by section 2329.13 of the Revised Code
1042 shall be taxed as costs in the case.

1043 (c) The fee charged by the private selling officer and all costs incurred by the private
1044 selling officer other than the costs described in divisions (D)(1)(a) and (b) of this section
1045 shall be taxed as costs in the case up to an amount equal to one and one-half per cent of the
1046 sale price of the real estate. To the extent the fees and costs described in division (D)(1)(c) of
1047 this section exceed one and one-half per cent of the sale price of the real estate, they shall not
1048 be included in the amount necessary to redeem real estate under section 2329.33 of the
1049 Revised Code or in the calculation of any deficiency judgment under section 2329.08 of the
1050 Revised Code but rather shall be paid by the judgment creditor or from the judgment
1051 creditor's portion of the proceeds of the sale.

1052 (2) The private selling officer shall file with the court that issued the order of sale an
1053 itemized report of all appraisal, publication, and other expenses of a sale conducted under
1054 this section and all fees charged by the private selling officer for marketing the real estate or
1055 conducting the sale of the real estate, including the fee charged by the title agent or title
1056 insurance company for administrative services, if applicable, and title, escrow, and closing

1057 services.

1058 (E)(1) The private selling officer who conducts a sale under this section may do any
1059 of the following:

1060 (a) Conduct the public auction of the real estate online. If the auction occurs online,
1061 the auction shall be open for bidding for a minimum of seven days.

1062 (b) Hire a title insurance agent licensed under Chapter 3953. of the Revised Code or
1063 title insurance company authorized to do business under that chapter to assist the private
1064 selling officer in performing administrative services;

1065 (c) Execute to the purchaser, or to the purchaser's legal representatives, a deed of
1066 conveyance of the real estate sold;

1067 (d) Record on behalf of the purchaser the deed conveying title to the real estate sold,
1068 notwithstanding that the deed may not actually have been delivered to the purchaser prior to
1069 its recording.

1070 (2) By placing a bid at a sale conducted pursuant to this section, a purchaser appoints
1071 the private selling officer who conducts the sale as agent of the purchaser for the sole purpose
1072 of accepting delivery of the deed.

1073 (3) The private selling officer who conducts the sale shall hire a title insurance agent
1074 licensed under Chapter 3953. of the Revised Code or title insurance company authorized to
1075 do business under that chapter to perform title, escrow, and closing services related to the
1076 sale of the real estate.

1077 (F) The fee charged by the title agent or title insurance company for services provided
1078 under divisions (E)(1)(b) and (3) of this section shall be taxed as costs in the case provided
1079 they are reasonable. Fees less than or equal to five hundred dollars are presumed to be

1080 reasonable. Fees exceeding five hundred dollars shall be paid only if authorized by a court
1081 order.

1082 Sec. 2329.153. (A) Not later than thirty days after the effective date of this section,
1083 the department of administrative services shall solicit competitive sealed proposals for the
1084 creation, operation, and maintenance of the official public sheriff sale web site and an
1085 integrated auction management system. The official public sheriff sale web site and
1086 integrated auction management system shall be a single statewide system for use by all
1087 county sheriffs in accordance with the requirements of this section.

1088 (B) The official public sheriff sale web site shall meet the following minimum
1089 requirements:

1090 (1) The web site shall have a domain name relevant to the judicial sale of real
1091 property.

1092 (2) The web site shall be limited to the judicial sale of real property located in this
1093 state.

1094 (3) The web site shall not charge a fee for members of the public to view properties
1095 for sale.

1096 (4) The web site shall allow each county sheriff to add text, images, or graphics to the
1097 web site for the purpose of identifying the county or sheriff conducting the sale.

1098 (5) The web site shall include industry-standard features and functionality, including
1099 user guides, online credit card payments, anti-snipe functionality, watch lists, electronic mail
1100 notifications, maximum bid limits, automatic incremental bidding, and search and map
1101 features that allow users to search by county, zip code, address, parcel number, appraised
1102 value, party name, case number, and other variables relevant to the judicial sale of real

1103 property.

1104 (6) The web site shall include features that allow for the cancellation of sales as
1105 required by law or court order and the postponement of sales in accordance with division
1106 (E)(2) of this section.

1107 (7) The web site shall be integrated with the auction management system described in
1108 division (C) of this section.

1109 (C) The auction management system shall meet the following minimum
1110 requirements:

1111 (1) The auction management system shall have a role-based workflow engine to assist
1112 in conducting sales on the web site, capturing data, complying with all relevant laws, and
1113 managing administrative processes related to the judicial sale of real property in a timely,
1114 secure, and accurate manner.

1115 (2) The auction management system shall record the data necessary to meet the
1116 reporting requirements of section 2329.312 of the Revised Code.

1117 (3) The auction management system shall be able to generate documents required by
1118 the court ordering the sale or related to the judicial sale of real property.

1119 (4) The auction management system shall be able to record fees, costs, deposits, and
1120 other money items with the objective of ensuring an accurate accounting of moneys received
1121 and disbursed in each judicial sale of real property.

1122 (5) The auction management system shall be integrated with the web site described in
1123 division (B) of this section.

1124 (D) The license fee for the creation, operation, and maintenance of the official public
1125 sheriff sale web site and integrated auction management system shall be determined using a

1126 per-transaction license fee model or a per-use license fee model. The addition of a property to
1127 the official public sheriff sale web site or the auction management system shall each be
1128 deemed a transaction for purposes of determining the license fee. The license fee applicable
1129 to each judicial sale of real property shall be taxed as costs in the case. No additional license
1130 fees shall be assessed to the county sheriff.

1131 (E)(1) Not later than one year after the effective date of this section, in all cases in
1132 which the sheriff is ordered to conduct a judicial sale of real property, the sale shall be
1133 conducted on the official public sheriff sale web site if the property is residential property,
1134 and may be conducted on the official public sheriff sale web site if the property is
1135 commercial property.

1136 (2) The judgment creditor may instruct the sheriff to postpone the sale of the real
1137 property one or more times for up to one hundred eighty days after the initial date for which
1138 sale is set. If more than one hundred eighty days have elapsed from the initial date for which
1139 sale was set, the judgment creditor shall have no right to any further postponement of the sale
1140 and the initial date for which sale was set shall be void. Upon receiving such instruction for
1141 postponement, the sheriff shall postpone the sale by announcing on the official public sheriff
1142 sale web site that the sale is postponed and the date, time, and location of the new sale. This
1143 announcement shall serve as notice of the subsequent sale.

1144 (F) Pursuant to their authority in section 9.482 of the Revised Code, counties may
1145 elect to enter into a shared services agreement relating to the judicial sale of real property on
1146 the official public sheriff sale web site. The shared services agreement may seek to improve
1147 efficiency and reduce costs in the judicial sale of real property by consolidating
1148 administrative functions and processes.

1149 Sec. 2329.154. (A) If property is sold online, the sheriff or private selling officer
1150 shall require persons seeking to bid to register online with the web site as a condition of
1151 being authorized to bid. The registration form shall include information relevant to the
1152 objective of enabling the sheriff or private selling officer to identify the bidder, contact the
1153 bidder, and complete the sale of the property.

1154 (B) An attorney or a law firm that represents the plaintiff or a party to the action may
1155 register and bid on property in a representative capacity, either as an individual or entity.

1156 (C)(1) If the person registering to bid is an individual, the information required by
1157 division (A) of this section shall include the individual's name, mailing address, which shall
1158 not be a post office box address, electronic mail address, telephone number, and credit card
1159 information.

1160 (2) If the person registering to bid is an entity, the information required by division
1161 (A) of this section shall include the entity's legal name, trade name if different from its legal
1162 name, state and date of formation, active or inactive status with the office of the secretary of
1163 state, mailing address, telephone number, credit card information, the name of an individual
1164 contact person for the entity, and the contact person's title, mailing address, which shall not
1165 be a post office box address, electronic mail address, and telephone number.

1166 (D) The registration form on the web site shall require the person registering to bid to
1167 state, to the best of the person's knowledge and belief, that the information provided by the
1168 person is true, correct, and complete under penalties of perjury.

1169 (E) The electronic mail address and credit card information required in division (C) of
1170 this section are confidential and not public records for purposes of section 149.43 of the
1171 Revised Code.

1172 **Sec. 2329.17.** (A) When execution is levied upon lands and tenements, the ~~officer~~
1173 ~~who makes the levy~~ sheriff shall call an inquest of three disinterested freeholders, who are
1174 residents of, and real property owners in, the county where the lands taken in execution are
1175 situated, ~~and administer to them an oath~~ impartially to who shall appraise the property so
1176 levied upon, upon actual view. ~~They forthwith shall return to such officer, under their hands,~~
1177 ~~an estimate of the real value of the property in money.~~

1178 (B) If the property to be appraised is residential property, the freeholders selected by
1179 the sheriff shall return to the sheriff an estimate of the value of the property in money within
1180 twenty-one calendar days of the issuance of the order of appraisal by the clerk of the court. If
1181 the court has ordered or the clerk of the court has issued an order for a private selling officer
1182 to advertise and sell the appraised property, the freeholders selected by the sheriff shall also
1183 deliver a copy of their appraisal to the private selling officer contemporaneously with their
1184 delivery of their appraisal to the sheriff.

1185 (C) If the freeholders selected by the sheriff under division (B) of this section do not
1186 deliver their appraisal within twenty-one calendar days of the issuance of the order of
1187 appraisal by the clerk of the court as required by division (B) of this section, then all of the
1188 following shall occur:

1189 (1) The cost of the appraisal by the freeholders shall not be payable to the freeholders
1190 or taxed as costs in the case.

1191 (2) The appraised value of the property shall be the fair market value of the property
1192 as shown on the records of the county auditor, unless, for good cause shown, the court
1193 authorizes a separate appraisal of the property.

1194 (3) The advertisement and sale of the property shall proceed immediately in

1195 accordance with the order of advertisement and sale issued by the clerk of the court.

1196 If a separate appraisal of the property is obtained, the cost of the appraisal shall be
1197 included as an expense of the sale pursuant to division (D) of section 2329.152 of the
1198 Revised Code.

1199 ~~(B)~~ (D) If the property to be appraised is commercial property, the freeholders
1200 selected by the sheriff shall return to the sheriff an estimate of the value of the property in
1201 money in accordance with the timing or other requirements, if any, that may be established
1202 for the sale.

1203 (E) The municipal corporation or township in which the real property is situated may
1204 inspect prior to the judicial sale any structures located on lands subject to a writ of execution.

1205 **Sec. 2329.18.** ~~When an officer receives the return provided for in division (A) of (A)~~
1206 If a court has ordered or the clerk of a court has issued an order for the sheriff to advertise
1207 and sell the real estate for which the appraised value has been determined pursuant to section
1208 2329.17 of the Revised Code, the officer forthwith sheriff shall deposit a copy of it the
1209 appraisal with the clerk of the court from which the writ was issued, and immediately
1210 advertise and sell such real estate in conformity with sections 2329.01 to 2329.61 of the
1211 Revised Code.

1212 (B) If the court has ordered or the clerk of the court has issued an order for a private
1213 selling officer to advertise and sell the real estate for which the appraised value has been
1214 determined pursuant to section 2329.17 of the Revised Code, the private selling officer shall
1215 immediately advertise and sell the real estate in conformity with sections 2329.01 to 2329.61
1216 of the Revised Code. _

1217 **Sec. 2329.19.** Upon the ~~return~~ determination of the estimate ~~provided for in division~~

1218 ~~(A) of appraised value pursuant to section 2329.17 of the Revised Code, if it appears by the~~
1219 ~~inquisition~~ that two-thirds of the appraised value of the lands and tenements levied upon is
1220 sufficient to satisfy the execution, with costs, the judgment on which the execution issued
1221 shall not operate as a lien on the residue of the debtor's estate to the prejudice of any other
1222 judgment creditor.

1223 **Sec. 2329.20.** ~~No~~ Except as otherwise provided in this section or sections 2329.51
1224 and 2329.52 of the Revised Code, no tract of land shall be sold for less than two-thirds the
1225 amount of the appraised value returned in the inquest required by as determined pursuant to
1226 section 2329.17 of the Revised Code; ~~except that in~~. In all cases where in which a junior
1227 mortgage or other junior lien is sought to be enforced against real estate by an order,
1228 judgment, or decree of court, subject to a prior lien thereon, and such prior lien, and the
1229 claims or obligations secured thereby, are unaffected by such order, judgment, or decree, the
1230 court making such order, judgment, or decree, may determine the minimum amount for
1231 which such real estate may be sold; In such a case, the minimum amount to shall be not less
1232 than two-thirds of the difference between the appraised value of the real estate appraised as
1233 provided determined in such that section, and the amount remaining unpaid on the claims or
1234 obligations secured by such prior lien.

1235 **Sec. 2329.21.** If the sum bid by the purchaser for the real estate sold under section
1236 2329.20 of the Revised Code relating to the enforcement of junior liens is insufficient to pay
1237 the costs ~~and allowance~~, allowances, and taxes, which the court has determined prior to such
1238 sale should be paid out of the proceeds thereof, pursuant to the terms of the mortgage or lien
1239 sought to be enforced, then the purchaser, in addition to the amount of ~~his~~ the purchaser's bid,
1240 must pay a sum which₂ with the amount so bid₂ will be sufficient to pay the costs ~~and~~₂

1241 allowances, and taxes. The court may fix the amount remaining unpaid on such claims or
1242 obligations for the purpose of the sale, and to that end require the parties to the suit to furnish
1243 to it satisfactory evidence of such unpaid amount. The advertisement or the sale of real estate
1244 sold under section 2329.20 of the Revised Code shall state that the purchaser shall be
1245 responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient
1246 to cover.

1247 **Sec. 2329.211.** (A) In every action demanding the judicial or execution sale of
1248 residential property, if the judgment creditor is the purchaser at the sale, the purchaser shall
1249 not be required to make a sale deposit. All other purchasers shall make a sale deposit as
1250 follows:

1251 (1) If the appraised value of the residential property is less than or equal to ten
1252 thousand dollars, the deposit shall be two thousand dollars.

1253 (2) If the appraised value of the residential property is greater than ten thousand
1254 dollars but less than or equal to two hundred thousand dollars, the deposit shall be five
1255 thousand dollars.

1256 (3) If the appraised value of the residential property is greater than two hundred
1257 thousand dollars, the deposit shall be ten thousand dollars.

1258 The timing of the deposit and other payment requirements shall be established by the
1259 court or the person conducting the sale and included in the advertisement of the sale. If the
1260 purchaser fails to meet the timing or other requirements of the deposit, the sale shall be
1261 invalid.

1262 (B) In every action demanding the judicial or execution sale of commercial property,
1263 the purchaser at the sale shall make a deposit pursuant to the requirements, if any, established

1264 for the sale.

1265 **Sec. 2329.26.** (A) Lands and tenements taken in execution shall not be sold until all
1266 of the following occur:

1267 (1)(a) Except as otherwise provided in division (A)(1)(b) of this section, the judgment
1268 creditor who seeks the sale of the lands and tenements or the judgment creditor's attorney
1269 does both of the following:

1270 (i) Causes a written notice ~~of the date, time, and place of the sale~~ to be served in
1271 accordance with divisions (A) and (B) of Civil Rule 5 upon the judgment debtor and upon
1272 each other party to the action in which the judgment giving rise to the execution was
1273 rendered; Such notice shall include the date, time, and place of the sale if the sale is to be
1274 held at a physical location or the start date and web site address of the sale if the sale is to be
1275 held online. Such notice shall also include the provisional second sale date described in
1276 division(B) of section 2329.52 of the Revised Code, if applicable.

1277 (ii) At least seven calendar days prior to the date of the sale, files with the clerk of the
1278 court that rendered the judgment giving rise to the execution a copy of the written notice
1279 described in division (A)(1)(a)(i) of this section with proof of service endorsed on the copy in
1280 the form described in division ~~(D)~~ (B) of Civil Rule 5.

1281 (b) Service of the written notice described in division (A)(1)(a)(i) of this section is not
1282 required to be made upon any party who is in default for failure to appear in the action in
1283 which the judgment giving rise to the execution was rendered.

1284 (2) ~~The~~ One of the following applies:

1285 (a) The officer taking the lands and tenements gives public notice of the date, time,
1286 and place of the sale once a week for at least three consecutive weeks before the day of sale

1287 if the sale is to be held at a physical location or the start date of the sale if the sale is to be
1288 conducted online.

1289 Such notice shall be by advertisement in a newspaper of general circulation in the
1290 county and shall include all the following information:

1291 (i) The date, time, and place of the sale if the sale is to be held at a physical location;

1292 (ii) The start date, the minimum duration, and web site address of the sale if the sale
1293 is to be held online;

1294 (iii) The deposit required by section 2329.211 of the Revised Code;

1295 (iv) That the purchaser shall be responsible for those costs, allowances, and taxes that
1296 the proceeds of the sale are insufficient to cover;

1297 (v) The provisional second sale date described in division (B) of section 2329.52 of
1298 the Revised Code, if applicable; provided, however, that no sale shall be invalid, nor shall the
1299 court vacate any sale, if the notice described in division (A) (1)(a)(i) of this section or the
1300 public notice described in division (A)(2) of this section fails to include the provisional date
1301 for a second sale of the property and the property is sold on the initial sale date.

1302 The newspaper shall meet the requirements of section 7.12 of the Revised Code.

1303 The court ordering the sale may designate in the order of sale the newspaper in which
1304 this public notice shall be published.

1305 (b) If a private selling officer has been ordered to sell the lands and tenements, the
1306 private selling officer shall give the public notice described in division (A)(2)(a) of this
1307 section in the newspaper designated by the court. If the court has not designated a newspaper,
1308 the private selling officer shall give this public notice in the newspaper customarily used or
1309 designated by the county sheriff. No sale that otherwise complies with division (A)(2) of this

1310 section shall be invalid.

1311 ~~(3)-(B)~~ The officer taking the lands and tenements shall collect the purchaser's
1312 information required by section 2329.271 of the Revised Code.

1313 ~~(B)-(C)~~ A sale of lands and tenements taken in execution may be set aside in
1314 accordance with division (A) or (B) of section 2329.27 of the Revised Code.

1315 **Sec. 2329.271.** (A)(1) Subject to division (A)(2) of this section, the purchaser of lands
1316 and tenements taken in execution shall submit to the officer who makes the sale the
1317 following information:

1318 ~~(a) The~~ (i) If the purchaser is an individual, the information shall include the
1319 individual's name, mailing address, which shall not be a post office box, electronic mail
1320 address, and telephone number, and credit card information of the purchaser;

1321 (ii) If the purchaser is an entity, the information shall include the entity's legal name,
1322 trade name if different from its legal name, state and date of formation, active or inactive
1323 status with the office of the secretary of state, mailing address, telephone number, credit card
1324 information, the name of an individual contact person for the entity, and the contact person's
1325 title, mailing address, which shall not be a post office box, electronic mail address, and
1326 telephone number.

1327 (b) An attorney or a law firm that represents a purchaser may submit the information
1328 required under division (A)(1)(a) of this section in a representative capacity, either as an
1329 individual or entity.

1330 (c) If the lands and tenements taken in execution are residential rental property and
1331 the residential rental property is purchased by a trust, business trust, estate, partnership,
1332 limited partnership, limited liability company, association, corporation, or any other business

1333 entity, the name, address, and telephone number of the following with the provision that the
1334 purchaser be readily accessible through the identified contact person:

- 1335 (i) A trustee, in the case of a trust or business trust;
- 1336 (ii) The executor or administrator, in the case of an estate;
- 1337 (iii) A general partner, in the case of a partnership or a limited partnership;
- 1338 (iv) A member, manager, or officer, in the case of a limited liability company;
- 1339 (v) An associate, in the case of an association;
- 1340 (vi) An officer, in the case of a corporation;
- 1341 (vii) A member, manager, or officer, in the case of any other business entity.

1342 ~~(e)-(d)~~ A statement indicating whether the purchaser will occupy the lands and
1343 tenements.

1344 (2) If the lands and tenements taken in execution are not residential rental property
1345 and the purchaser of those lands and tenements is a corporation, partnership, association,
1346 estate, trust, or other business organization the only place of business of which is in the
1347 county in which the real property is located, the information required by divisions (A)(1)(a)
1348 and ~~(e)-(d)~~ of this section shall be the contact information for the office of an employee of the
1349 purchasing entity that is located in that county and that the purchasing entity has designated
1350 to receive notices or inquiries about the property. If the purchasing entity has a place of
1351 business outside the county in which the real property is located and the purchasing entity's
1352 principal place of business is located in this state, the information required by divisions
1353 (A)(1)(a) and ~~(e)-(d)~~ of this section shall be the contact information for the office of an
1354 employee of the purchasing entity that is located in this state and that the purchasing entity
1355 has designated to receive notices or inquiries about the property. If the purchasing entity's

1356 principal place of business is not located in this state, the information required by divisions
1357 (A)(1)(a) and ~~(e)-(d)~~ of this section shall be the contact information for a natural person who
1358 is employed by the purchasing entity at the purchasing entity's principal place of business
1359 outside of this state and whom the purchasing entity has designated to receive notices or
1360 inquiries about the property.

1361 (B)(1) The information required by division (A) of this section shall be part of ~~the~~
1362 ~~sheriff's record of proceedings and shall be part of the~~ record of the court of common pleas. If
1363 the court has ordered or the clerk of the court has issued an order for the sheriff to advertise
1364 and sell the lands and tenements, the information also shall be part of the sheriff's record of
1365 proceedings. ~~The~~ Except as provided in division (B)(2) of this section, the information is a
1366 public record and open to public inspection.

1367 (2) The electronic mail address and credit card information required in division (A)(1)
1368 of this section are confidential and not public records for purposes of section 149.43 of the
1369 Revised Code.

1370 **Sec. 2329.28.** The ~~sheriff~~ levying officer shall indorse on the writ of execution ~~his~~ the
1371 officer's proceedings thereon, and the clerk of the court of common pleas, upon the return
1372 thereof, immediately shall record all such indorsements at length, in the execution docket, or
1373 other docket provided for that purpose. That record shall be a part of the record of the court
1374 of common pleas.

1375 **Sec. 2329.30.** The court from which an execution or order of sale issues, upon notice
1376 and motion of the officer who makes the sale or of an interested party, may punish any
1377 purchaser of lands and tenements who fails to pay within thirty days of the confirmation of
1378 the sale the balance due on the purchase price of the lands and tenements by forfeiting the

1379 sale of the lands and tenements and returning any deposit paid in connection with the sale of
1380 the lands and tenements, by forfeiting any deposit paid in connection with the sale of the
1381 lands and tenements, as for contempt, or in any other manner the court considers appropriate.
1382 Upon motion, the court may order the return of any remaining portion of the deposit of the
1383 purchaser, less the costs of a subsequent sale and any other remedy the court considers
1384 appropriate. An order for contempt for failure of the purchaser to pay voids the confirmation
1385 of sale and transfer.

1386 **Sec. 2329.31.** (A) Upon the return of any writ of execution for the satisfaction of
1387 which lands and tenements have been sold, on careful examination of the proceedings of the
1388 officer making the sale, if the court of common pleas finds that the sale was made, in all
1389 respects, in conformity with sections 2329.01 to 2329.61 of the Revised Code, it shall, within
1390 thirty days of the return of the writ, direct the clerk of the court of common pleas to make an
1391 entry on the journal that the court is satisfied of the legality of such sale ~~and that the attorney~~
1392 ~~who filed the writ of execution make to the purchaser a deed for the lands and tenements.~~
1393 Nothing in this section prevents the court of common pleas from staying the confirmation of
1394 the sale to permit a property owner time to redeem the property or for any other reason that it
1395 determines is appropriate. In those instances, the sale shall be confirmed within thirty days
1396 after the termination of any stay of confirmation.

1397 (B) The officer making the sale shall require the purchaser, including a lienholder, to
1398 pay within thirty days of the confirmation of the sale the balance due on the purchase price of
1399 the lands and tenements.

1400 (C)(1) The officer making the sale shall record the prepared deed required by section
1401 2329.36 of the Revised Code within fourteen days after the later of the confirmation of sale

1402 or payment of the balance due.

1403 (2)(a) If the deed is not prepared and recorded within the fourteen-day period, the
1404 purchaser may file a motion with the court to proceed with the transfer of title. If the court
1405 finds that a proper sale was made, it shall enter an order transferring the title of the lands and
1406 tenements to the purchaser, ordering the plaintiff to present a certified copy of the order to
1407 the county recorder for recording, and ordering the county recorder to record the order in the
1408 record of deeds. The order, when filed with the county recorder, shall have the same effect as
1409 a deed prepared pursuant to section 2329.36 of the Revised Code.

1410 (b) Upon the issuance of the court order described in division (C)(2)(a) of this
1411 section, the plaintiff, or the plaintiff's attorney, shall present a certified copy of the order to
1412 be recorded in the office of the county recorder. The county recorder shall record the order in
1413 the record of deeds.

1414 (c) The clerk shall issue a copy of the court order to the county auditor to transfer
1415 record ownership of the lands and tenements for the purpose of real estate taxes. Real estate
1416 taxes coming due after the date of the sale shall not prohibit the auditor from transferring
1417 ownership of the lands and tenements on its records or cause the recorder to deny recording.
1418 The real estate taxes shall become the responsibility of the new title holder of the lands and
1419 tenements. The sheriff shall not require the confirmation of sale to be amended for taxes not
1420 due and payable as of the date of the sale.

1421 **Sec. 2329.311.** In sales of residential properties taken in execution or order of sale
1422 that are sold at an auction with no set minimum bid pursuant to division (B) of section
1423 2329.52 of the Revised Code, the judgment creditor and the first lienholder each have the
1424 right to redeem the property within fourteen days after the sale by paying the purchase price.

1425 The redeeming party shall pay the purchase price to the clerk of the court in which the
1426 judgment was rendered or the order of sale was made. Upon timely payment, the court shall
1427 proceed as described in section 2329.31 of the Revised Code, with the redeeming party
1428 considered the successful purchaser at sale.

1429 Sec. 2329.312. (A) All levying officers appointed by a court under this chapter to
1430 conduct the judicial or execution sale of residential property consisting of one to four single-
1431 family units shall submit quarterly reports to the attorney general for the purpose of assessing
1432 the extent to which deadlines required by this chapter are met. The reports shall include data
1433 on each such sale conducted by the officer.

1434 (B) The attorney general shall do all of the following:

1435 (1) Establish and maintain a database comprised of the information submitted by
1436 levying officers pursuant to division (A) of this section;

1437 (2) Make the information included in the database publicly available;

1438 (3) Adopt rules for the creation and administration of the database.

1439 Sec. 2329.33. ~~In~~ Except as provided in division (C) of section 2308.03 or any other
1440 section of the Revised Code, in sales of real estate on execution or order of sale, at any time
1441 before the confirmation thereof, the debtor may redeem it from sale by depositing in the
1442 hands of the clerk of the court of common pleas to which such execution or order is
1443 returnable, the amount of the judgment or decree upon which such lands were sold, with all
1444 costs, including poundage, and interest at the rate of eight per cent per annum on the
1445 purchase money from the day of sale to the time of such deposit, except where the judgment
1446 creditor is the purchaser, the interest at such rate on the excess above ~~his~~ the judgment
1447 creditor's claim. The court of common pleas thereupon shall make an order setting aside such

1448 sale, and apply the deposit to the payment of such judgment or decree and costs, and award
1449 such interest to the purchaser, who shall receive from the officer making the sale the
1450 purchase money paid by ~~him~~ the purchaser, and the interest from the clerk. This section does
1451 not take away the power of the court to set aside such sale for any reason for which it might
1452 have been set aside prior to April 16, 1888.

1453 **Sec. 2329.34.** Real property may be conveyed by a master commissioner or special
1454 master only:

1455 (A) When, by an order or a judgment in an action or proceeding, a party is required to
1456 convey such property to another, and ~~he~~ the party neglects or refuses to do so, and the master
1457 is directed to convey on ~~his~~ the party's failure;

1458 (B) When specific real property is sold by a master under an order or judgment of the
1459 court appointing ~~him~~ the master. No court shall make or issue an order to a master for the
1460 sale of real estate except in response to a motion by a judgment creditor, unless which motion
1461 shall be granted only if there exists some special reason why the sale should not be made by
1462 the sheriff of the county where the decree or order was made, ~~which reason, if or by a~~
1463 private selling officer. If the court finds any such reason to exist, that reason shall be
1464 embodied in and made part of the judgment, order, or decree for such sale.

1465 **Sec. 2329.39.** ~~Sale~~ Except as provided in sections 2329.152 and 2329.153 of the
1466 Revised Code, sale of lands or tenements under execution or order of sale must be held in the
1467 county in which they are situated and at the courthouse, unless otherwise ordered by the
1468 court. Purchase of real or personal property, by the officer making the sale thereof, or by an
1469 appraiser of such property, shall be fraudulent and void.

1470 **Sec. 2329.52.** ~~When~~ (A) Except as otherwise provided in division (B) of this section,

1471 when premises are ordered to be sold, if said premises, or a part thereof, remain unsold for
1472 want of bidders after having been once appraised, advertised, and offered for sale, the court
1473 from which the order of sale issued may, on motion of the plaintiff or defendant and from
1474 time to time until said premises are disposed of, order a new appraisal and sale or direct
1475 the amount for which said premises, or a part thereof, may be sold.

1476 The court may order that the premises be sold as follows: One third cash in hand, one
1477 third in nine months from the day of sale, and the remaining one third in eighteen months
1478 from the day of sale, the deferred payments to draw interest at six per cent and be secured by
1479 a mortgage on the premises.

1480 (B) When a residential property is ordered to be sold pursuant to a residential
1481 mortgage loan foreclosure action, and the sale will be held at a physical location and not
1482 online, and if the property remains unsold after the first auction, then a second auction shall
1483 be held and the property shall be sold to the highest bidder without regard to the minimum
1484 bid requirement in section 2329.20 of the Revised Code, but subject to section 2329.21 of the
1485 Revised Code relating to costs, allowances, and real estate taxes. This second auction shall be
1486 held not earlier than seven days and not later than thirty days after the first auction. A
1487 residential property that remains unsold after two auctions may be subsequently offered for
1488 sale without regard to the minimum bid requirement in section 2329.20 of the Revised Code
1489 or disposed of in any other manner pursuant to this chapter or any other provision of the
1490 Revised Code.

1491 **Sec. 2329.56.** When a freeholder, summoned as an appraiser, fails to appear at the
1492 time and place appointed by the officers ordering ~~his~~ the freeholder's appearance and
1493 discharge ~~his~~ the duty as such, on complaint made to a judge of the county court in the

1494 district in which such freeholder resides, unless ~~he~~ the freeholder has a reasonable excuse, ~~he~~
1495 the freeholder shall pay fifty ~~cents~~ dollars for each neglect, which shall be collected by the
1496 judge, and paid into the county treasury for the use of the county.

1497 **Sec. 2909.07.** (A) No person shall:

1498 (1) Without privilege to do so, knowingly move, deface, damage, destroy, or
1499 otherwise improperly tamper with the property of another or one's own real property subject
1500 to a mortgage after a foreclosure complaint in relation to that mortgage is filed against a
1501 person and that person has been served with a summons and complaint in a pending
1502 residential mortgage loan foreclosure action, including the time between judgment entry and
1503 confirmation of sale, relating to that real property;

1504 (2) With purpose to interfere with the use or enjoyment of property of another,
1505 employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance
1506 that is harmful or offensive to persons exposed or that tends to cause public alarm;

1507 (3) Without privilege to do so, knowingly move, deface, damage, destroy, or
1508 otherwise improperly tamper with a benchmark, triangulation station, boundary marker, or
1509 other survey station, monument, or marker;

1510 (4) Without privilege to do so, knowingly move, deface, damage, destroy, or
1511 otherwise improperly tamper with any safety device, the property of another, or the property
1512 of the offender when required or placed for the safety of others, so as to destroy or diminish
1513 its effectiveness or availability for its intended purpose;

1514 (5) With purpose to interfere with the use or enjoyment of the property of another, set
1515 a fire on the land of another or place personal property that has been set on fire on the land of
1516 another, which fire or personal property is outside and apart from any building, other

1517 structure, or personal property that is on that land;

1518 (6) Without privilege to do so, and with intent to impair the functioning of any
1519 computer, computer system, computer network, computer software, or computer program,
1520 knowingly do any of the following:

1521 (a) In any manner or by any means, including, but not limited to, computer hacking,
1522 alter, damage, destroy, or modify a computer, computer system, computer network, computer
1523 software, or computer program or data contained in a computer, computer system, computer
1524 network, computer software, or computer program;

1525 (b) Introduce a computer contaminant into a computer, computer system, computer
1526 network, computer software, or computer program.

1527 (B) As used in this section, "safety device" means any fire extinguisher, fire hose, or
1528 fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line,
1529 life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or
1530 notice intended to warn of danger or emergency, or intended for other safety purposes, or any
1531 guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing
1532 sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or
1533 equipment intended for protecting or preserving the safety of persons or property.

1534 (C)(1) Whoever violates this section is guilty of criminal mischief, and shall be
1535 punished as provided in division (C)(2) or (3) of this section.

1536 (2) Except as otherwise provided in this division, criminal mischief committed in
1537 violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third
1538 degree. Except as otherwise provided in this division, if the violation of division (A)(1), (2),
1539 (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief

1540 committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor
1541 of the first degree. If the property involved in the violation of division (A)(1), (2), (3), (4), or
1542 (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel,
1543 lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be
1544 used in the operation of an aircraft, or any cargo carried or intended to be carried in an
1545 aircraft, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of
1546 this section is one of the following:

1547 (a) If the violation creates a risk of physical harm to any person, except as otherwise
1548 provided in division (C)(2)(b) of this section, criminal mischief committed in violation of
1549 division (A)(1), (2), (3), (4), or (5) of this section is a felony of the fifth degree.

1550 (b) If the violation creates a substantial risk of physical harm to any person or if the
1551 property involved in a violation of this section is an occupied aircraft, criminal mischief
1552 committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a felony of the
1553 fourth degree.

1554 (3) Except as otherwise provided in this division, criminal mischief committed in
1555 violation of division (A)(6) of this section is a misdemeanor of the first degree. Except as
1556 otherwise provided in this division, if the value of the computer, computer system, computer
1557 network, computer software, computer program, or data involved in the violation of division
1558 (A)(6) of this section or the loss to the victim resulting from the violation is one thousand
1559 dollars or more and less than ten thousand dollars, or if the computer, computer system,
1560 computer network, computer software, computer program, or data involved in the violation
1561 of division (A)(6) of this section is used or intended to be used in the operation of an aircraft
1562 and the violation creates a risk of physical harm to any person, criminal mischief committed

1563 in violation of division (A)(6) of this section is a felony of the fifth degree. If the value of the
1564 computer, computer system, computer network, computer software, computer program, or
1565 data involved in the violation of division (A)(6) of this section or the loss to the victim
1566 resulting from the violation is ten thousand dollars or more, or if the computer, computer
1567 system, computer network, computer software, computer program, or data involved in the
1568 violation of division (A)(6) of this section is used or intended to be used in the operation of
1569 an aircraft and the violation creates a substantial risk of physical harm to any person or the
1570 aircraft in question is an occupied aircraft, criminal mischief committed in violation of
1571 division (A)(6) of this section is a felony of the fourth degree.

1572 **Sec. 5302.01.** The forms set forth in sections 5302.05, 5302.07, 5302.09, 5302.11,
1573 5302.12, 5302.14, ~~and~~ 5302.17, and 5302.31 of the Revised Code may be used and shall be
1574 sufficient for their respective purposes. They shall be known as "Statutory Forms" and may
1575 be referred to as such. They may be altered as circumstances require, and the authorization of
1576 those forms shall not prevent the use of other forms. Wherever the phrases defined in
1577 sections 5302.06, 5302.08, 5302.10, and 5302.13 of the Revised Code are to be incorporated
1578 in instruments by reference, the method of incorporation as indicated in the statutory forms
1579 shall be sufficient, but shall not preclude other methods.

1580 **Sec. 5302.31.** A deed in substance following the form set forth in this section, when
1581 duly executed in accordance with Chapter 5301. of the Revised Code, has the force and
1582 effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, to
1583 the grantee's and the grantee's heirs', assigns', and successors' own use, with covenants on the
1584 part of the grantor with the grantee, the grantee's heirs, assigns, and successors, that, at the
1585 time of the delivery of that deed, the grantor was duly appointed, qualified, and acting in the

1586 fiduciary capacity described in that deed, and was duly authorized to make the sale and
1587 conveyance of the premises; and that in all of the grantor's proceedings in the sale of the
1588 premises the grantor has complied with the requirements of the statutes in such case
1589 provided.

1590

1591 "Private Selling Officer's Deed

1592 Ohio Revised Code § 2329.152

1593 Case No. x _____

1594 I, x _____, a private selling officer as defined in section 2329.01
1595 of the Revised Code, pursuant to the Order of Sale entered on x _____, the
1596 Confirmation of Sale entered on x _____, and in consideration of the sum of \$ _____,
1597 the receipt whereof is hereby acknowledged, do hereby grant, sell, and convey unto

1598 _____ , tax mailing address x _____, all the rights, title, and

1599 interest of the parties in Court of Common Pleas, x _____ County, Ohio, Case No.

1600 _____, x _____ vs. x _____, and all pleadings therein incorporated

1601 herein by reference in and to the following Lands and Tenements situated in the County of x

1602 _____ and State of Ohio, known and described as follows, to-

1603 wit:

1604 (description of land or interest therein)

1605 This deed does not reflect any restrictions, conditions, or easements of record.

1606 Prior Owner: x _____

1607 Prior Instrument Reference: x _____

1608 Executed this x _____ day of _____.

=====

1609 signature of private selling officer) Auctioneer License # x _____ Real Estate Broker

1610 License # _____ x _____

1611 (Execution in accordance with Chapter 5301. of the Revised Code)"

1612 **Sec. 5721.371. (A)** Private attorney's fees payable with respect to an action under
1613 sections 5721.30 to 5721.46 of the Revised Code are subject to the following conditions:

1614 ~~(A)~~(1) The fees must be reasonable.

1615 ~~(B)~~(2) Fees exceeding two thousand five hundred dollars shall be paid only if
1616 authorized by a court order.

1617 ~~(C)~~(B)(1) Fees less than or equal to two thousand five hundred dollars shall be
1618 presumed to be reasonable.

1619 (2) If the private attorney's fees payable are fixed and not determined on an hourly
1620 basis, the court shall not consider or require evidence of hours expended or hourly rates.

1621 (3) The terms of a sale negotiated under section 5721.33 of the Revised Code may
1622 include the amount to be paid in private attorney's fees, subject to division ~~(B)~~(A)(2) of this
1623 section.

1624 **Sec. 5721.372. (A)** A private selling officer's fees payable with respect to an action
1625 under sections 5721.30 to 5721.46 of the Revised Code are subject to both of the following
1626 conditions: (1) The fees must be reasonable.

1627 (2) Fees exceeding five per cent of the sale price of the property, if such amount is
1628 greater than seven hundred fifty dollars, shall be paid only if authorized by a court order.

1629 (B)(1) Fees less than or equal to seven hundred fifty dollars shall be presumed to be
1630 reasonable.

1631 (2) The terms of a sale negotiated under section 5721.33 of the Revised Code may

1632 include the amount to be paid in private selling officer's fees, subject to division (A) of this
1633 section.

1634 (C) As used in this section, "private selling officer" has the same meaning as in
1635 section 2329.01 of the Revised Code.

1636 **Sec. 5721.373.** (A) A title agent's or title insurance company's fees payable with
1637 respect to an action under sections 5721.30 to 5721.46 of the Revised Code are subject to the
1638 following conditions:

1639 (1) The fees must be reasonable.

1640 (2) Fees exceeding five hundred dollars shall be paid only if authorized by a court
1641 order.

1642 (B)(1) Fees less than or equal to five hundred dollars shall be presumed to be
1643 reasonable.

1644 (2) The terms of a sale negotiated under section 5721.33 of the Revised Code may
1645 include the amount to be paid in title gent's or title company's fees, subject to division (A) of
1646 this section.

1647 **Sec. 5721.39.** (A) In its judgment of foreclosure rendered in actions filed pursuant to
1648 section 5721.37 of the Revised Code, the court or board of revision shall enter a finding that
1649 includes all of the following with respect to the certificate parcel:

1650 (1) The amount of the sum of the certificate redemption prices for all the tax
1651 certificates sold against the parcel;

1652 (2) Interest on the certificate purchase prices of all certificates at the rate of eighteen
1653 per cent per year for the period beginning on the day on which the payment was submitted by
1654 the certificate holder under division (B) of section 5721.37 of the Revised Code;

1655 (3) The amount paid under division (B)(2) of section 5721.37 of the Revised Code,
1656 plus interest at the rate of eighteen per cent per year for the period beginning on the day the
1657 certificate holder filed a request for foreclosure or a notice of intent to foreclose under
1658 division (A) of that section;

1659 (4) Any delinquent taxes on the parcel that are not covered by a payment under
1660 division (B)(2) of section 5721.37 of the Revised Code;

1661 (5) Fees and costs incurred in the foreclosure proceeding instituted against the parcel,
1662 including, without limitation, the fees and costs of the prosecuting attorney represented by
1663 the fee paid under division (B)(3) of section 5721.37 of the Revised Code, plus interest as
1664 provided in division (D)(2)(d) of this section, or the fees and costs of the private attorney
1665 representing the certificate holder, and charges paid or incurred in procuring title searches
1666 and abstracting services relative to the subject premises.

1667 (B) The court or board of revision may order the certificate parcel to be sold or
1668 otherwise transferred according to law, without appraisal and as set forth in the prayer of the
1669 complaint, for not less than the amount of its finding, or, in the event that the true value of
1670 the certificate parcel as determined by the county auditor is less than the certificate
1671 redemption price, the court or board of revision may, as prayed for in the complaint, issue a
1672 decree transferring fee simple title free and clear of all subordinate liens to the certificate
1673 holder or as otherwise provided in sections 323.65 to 323.79 of the Revised Code. A decree
1674 of the court or board of revision transferring fee simple title to the certificate holder is forever
1675 a bar to all rights of redemption with respect to the certificate parcel.

1676 (C)(1) The certificate holder may elect to have the parcel sold by the sheriff or a
1677 private selling officer as defined in section 2329.01 of the Revised Code. This election shall

1678 be made on a praecipe for order of sale. Upon the filing of a praecipe for order of sale, the
1679 clerk of the court shall immediately issue an order of sale in accordance with the election
1680 made by the certificate holder.

1681 (2) The officer to whom the order of sale is directed may conduct the public auction
1682 of the parcel at a physical location in the county in which the parcel is located or online. If
1683 the public auction occurs online, the auction shall be open for bidding for seven days. If the
1684 parcel is not sold during this initial seven-day period, a second online auction shall be held
1685 not earlier than three days or later than thirty days after the end of the first auction. The
1686 second online auction shall be open for bidding for seven days.

1687 (3) A private selling officer who conducts an auction of the parcel under this section
1688 may do any of the following:

1689 (a) Hire a title insurance agent licensed under Chapter 3953. of the Revised Code or
1690 title insurance company authorized to do business under that chapter to assist the private
1691 selling officer in performing administrative services;

1692 (b) Execute to the purchaser, or to the purchaser's legal representatives, a deed of
1693 conveyance of the parcel sold in conformity with the form set forth in section 5302.31 of the
1694 Revised Code;

1695 (c) Record on behalf of the purchaser the deed conveying title to the parcel sold,
1696 notwithstanding that the deed may not actually have been delivered to the purchaser prior to
1697 its recording.

1698 (4) By placing a bid at a sale conducted pursuant to this section, a purchaser appoints
1699 the private selling officer who conducts the sale as agent of the purchaser for the sole purpose
1700 of accepting delivery of the deed.

1701 (5) The private selling officer who conducts the sale shall hire a title insurance agent
1702 licensed under Chapter 3953. of the Revised Code or title insurance company authorized to
1703 do business under that chapter to perform title, escrow, and closing services related to the
1704 sale of the parcel.

1705 (6) Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code,
1706 and the alternative redemption period thereunder, each certificate parcel shall be advertised
1707 and sold by the officer to whom the order of sale is directed in the manner provided by law
1708 for the sale of real property on execution. The advertisement for sale of certificate parcels
1709 shall be published once a week for three consecutive weeks and shall include the date on
1710 which a second sale will be conducted if no bid is accepted at the first sale. Any number of
1711 parcels may be included in one advertisement.

1712 Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code,
1713 whenever the officer charged to conduct the sale offers a certificate parcel for sale at a
1714 physical location and not online and no bids are made equal to at least the amount of the
1715 finding of the court or board of revision, the officer shall adjourn the sale of the parcel to the
1716 second date that was specified in the advertisement of sale. The second sale shall be held at
1717 the same place and commence at the same time as set forth in the advertisement of sale. The
1718 officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if
1719 any parcel remains unsold after being offered at two sales, the officer conducting the sale
1720 shall report the results to the court or board of revision.

1721 (D) Upon the confirmation of a sale, the proceeds of the sale shall be applied as
1722 follows:

1723 (1) The fees and costs incurred in the proceeding filed against the parcel pursuant to

1724 section 5721.37 of the Revised Code shall be paid first, including attorney's fees of the
1725 certificate holder's attorney payable under division (F) of that section, private selling officer's
1726 fees, title agent's or title company's fees, or the county prosecutor's costs covered by the fee
1727 paid by the certificate holder under division (B)(3) of that section.

1728 (2) Following the payment required by division (D)(1) of this section, the certificate
1729 holder that filed the notice of intent to foreclose or request for foreclosure with the county
1730 treasurer shall be paid the sum of the following amounts:

1731 (a) The sum of the amount found due for the certificate redemption prices of all the
1732 tax certificates that are sold against the parcel;

1733 (b) Any premium paid by the certificate holder at the time of purchase;

1734 (c) Interest on the amounts paid by the certificate holder under division (B)(1) of
1735 section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on
1736 the day on which the payment was submitted by the certificate holder to the county treasurer
1737 and ending on the day immediately preceding the day on which the proceeds of the
1738 foreclosure sale are paid to the certificate holder;

1739 (d) Interest on the amounts paid by the certificate holder under divisions (B)(2) and
1740 (3) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning
1741 on the day on which the payment was submitted by the certificate holder under divisions
1742 (B)(2) and (3) of that section and ending on the day immediately preceding the day on which
1743 the proceeds of the foreclosure sale are paid to the certificate holder pursuant to this section,
1744 except that such interest shall not accrue for more than three years if the certificate was sold
1745 under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by
1746 the holder of a certificate issued under section 5721.32 of the Revised Code, or more than six

1747 years if the certificate was sold under section 5721.33 of the Revised Code, or under section
1748 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of
1749 the Revised Code, after the day the amounts were paid by the certificate holder under
1750 divisions (B)(2) and (3) of section 5721.37 of the Revised Code;

1751 (e) The amounts paid by the certificate holder under divisions (B)(1), (2), and (3) of
1752 section 5721.37 of the Revised Code.

1753 (3) Following the payment required by division (D)(2) of this section, any amount
1754 due for taxes, installments of assessments, charges, penalties, and interest not covered by the
1755 tax certificate holder's payment under division (B)(2) of section 5721.37 of the Revised Code
1756 shall be paid, including all taxes, installments of assessments, charges, penalties, and interest
1757 payable subsequent to the entry of the finding and prior to the transfer of the deed of the
1758 parcel to the purchaser following confirmation of sale. If the proceeds available for
1759 distribution pursuant to this division are insufficient to pay the entire amount of those taxes,
1760 installments of assessments, charges, penalties, and interest, the proceeds shall be paid to
1761 each claimant in proportion to the amount of those taxes, installments of assessments,
1762 charges, penalties, and interest that each is due, and those taxes, installments of assessments,
1763 charges, penalties, and interest are deemed satisfied and shall be removed from the tax list
1764 and duplicate.

1765 (4) Any residue of money from proceeds of the sale shall be disposed of as prescribed
1766 by section 5721.20 of the Revised Code.

1767 (E) Unless the parcel previously was redeemed pursuant to section 5721.25 or
1768 5721.38 of the Revised Code, upon the filing of the entry of confirmation of sale, or an order
1769 to transfer the parcel under sections 323.65 to 323.79 of the Revised Code, the title to the

1770 parcel is incontestable in the purchaser and is free and clear of all liens and encumbrances,
1771 except a federal tax lien, notice of which lien is properly filed in accordance with section
1772 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted
1773 pursuant to section 5721.37 of the Revised Code, and which lien was foreclosed in
1774 accordance with 28 U.S.C.A. 2410(c), and except for the easements and covenants of record
1775 running with the land or lots that were created prior to the time the taxes or installments of
1776 assessments, for the nonpayment of which a tax certificate was issued and the parcel sold at
1777 foreclosure, became due and payable.

1778 The title shall not be invalid because of any irregularity, informality, or omission of
1779 any proceedings under this chapter or in any processes of taxation, if such irregularity,
1780 informality, or omission does not abrogate the provision for notice to holders of title, lien, or
1781 mortgage to, or other interests in, such foreclosed parcels, as prescribed in this chapter.

1782 **Section 2.** That existing sections 323.47, 1303.16, 1303.38, 2303.26, 2329.01,
1783 2329.151, 2329.17, 2329.18, 2329.19,2329.20, 2329.21, 2329.26, 2329.271, 2329.28,
1784 2329.30, 2329.31,2329.33, 2329.34, 2329.39, 2329.52, 2329.56, 2909.07, 5302.01,5721.371,
1785 and 5721.39 of the Revised Code are hereby repealed.

1786 **Section 3.** (A) The provisions of the Revised Code, including Title XXIII, relating to
1787 the judicial sale of real estate pursuant to a mortgage loan foreclosure action comprise a
1788 comprehensive regulatory framework intended to operate uniformly throughout the state to
1789 provide efficient sales procedures for foreclosed property, improve the market for such
1790 property by increasing sale prices, and reduce the number of unoccupied and abandoned
1791 properties marring the cities of this state.

1792 (B) The provisions of the Revised Code, including Title XXIII, relating to the judicial
1793 sale of real estate pursuant to a mortgage loan foreclosure action have been enacted in
1794 furtherance of the police powers of the state, prescribe rules of conduct upon citizens
1795 generally, and constitute general laws within the meaning of Section 3 of Article XVIII of the
1796 Ohio Constitution.

1797 (C) It is the intent of the General Assembly to entirely preempt municipal
1798 corporations and other political subdivisions with respect to the enforcement of real estate
1799 loan agreements and any mortgage or other security instrument by which the loan is secured.

1800 **REPORT OF THE CORPORATION LAW COMMITTEE**

1801

1802 *To the Council of Delegates:*

1803

1804 The Corporation Law Committee (the “Committee”) requests your favorable consideration of
1805 the following legislative proposal:

1806

1807 To amend O.R.C. §1701.01 et seq. to provide for a new form of for-profit
1808 corporation, a “benefit corporation,” and to afford the corporation and its directors
1809 protection against liability to beneficiaries relating to the corporation’s pursuit or
1810 failure to pursue any beneficial purpose.

1811

1812

Respectfully submitted,

1813

1814

Jeffrey R. Wahl, Columbus

1815

Chair, Corporation Law Committee

1816

1817

1818 **Overview and Rationale for the Proposal**

1819

1820 A “benefit corporation” is a for-profit corporation that is authorized by specific provision in
1821 its organizational documents to pursue one or more beneficial purposes in addition to the
1822 other legal purposes for which for-profit corporations may be formed. Benefit corporations
1823 do not receive any special government incentives to operate for a beneficial purpose (e.g.,
1824 special tax treatment) and are subject to all the other requirements and limitations imposed by
1825 Ohio law on for-profit corporations. Benefit corporations can be of any size and operate in
1826 any business. A “beneficial purpose” can be any purpose that has beneficial effects on
1827 persons, entities, communities, or interests, other than shareholders in their capacity as
1828 shareholders, including effects of an artistic, charitable, cultural, economic, educational,
1829 environmental, literary, medical, religious, scientific or technological nature. Under the
1830 proposal, benefit corporations and their directors are protected from liability to beneficiaries
1831 of a beneficial purpose and specifically owe no duty to such beneficiaries.

1832

1833 As of September 2015, 31 states have adopted amendments to their respective corporation
1834 laws to provide for the creation of “benefit corporations.” Fourteen other states are actively
1835 considering adopting “benefit corporation” legislation.

1836

1837 Ohio’s proposed legislation differs from that adopted in some other states due to its
1838 flexibility. Some state laws require each “benefit corporation” to produce an annual “public”
1839 benefit report prepared against a third-party standard that describes how and to what extent
1840 the corporation has accomplished its beneficial purpose. Ohio’s legislation gives
1841 shareholders the flexibility to determine what, if any, public reporting would be required.
1842 For example, the owners of a corner grocery store that operates for a profit may also approve
1843 cancer research as a beneficial purpose without being required to report publicly. However, a
1844 company wishing to attract investors who make investment decisions based on a beneficial
1845 purpose can provide for public reporting and auditing of the report. In either circumstance,

1846 benefit corporations would still be required to produce annual financial statements (as
1847 required by O.R.C. §1701.38) for shareholders, and shareholders would still be entitled to
1848 examine the books and records of the corporation (as provided for in §1701.37(C)).
1849

1850 **Text of the Proposal**
1851

131st General Assembly

Regular Session

. B. No.

2015-2016

A BILL (see Committee Comment #1)¹

1852 To amend sections 1151.38, 1151.61, 1701.01, 1701.03,
1853 1701.04, 1701.05, 1701.38, 1701.59, 1701.591, and 1701.94
1854 and to enact section 1701.96 of the Revised Code to allow a
1855 corporation to become a benefit corporation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

1856 **Section 1.** That sections 1151.38, 1151.61, 1701.01, 1701.03, 1701.04,
1857 1701.05, 1701.38, 1701.59, 1701.591, and 1701.94, be amended and section 1701.96
1858 of the Revised Code be enacted to read as follows:

1859 **Sec. 1151.38.** As used in this section, "federal association" means a federal
1860 savings and loan association, and "state association" means a state savings and loan
1861 association.

1862 Any federal association having its home office in this state may convert or
1863 reorganize into a state association under this section and section 1151.39 of the
1864 Revised Code by proceeding as follows:

1865 (A) The board of directors of the federal association, at any regular or
1866 special meeting called for that purpose, shall adopt a plan to convert or reorganize
1867 into a state association.

1868 (B) The plan and any amendments or additions to the plan shall be
1869 considered, and a vote shall be taken on the question of its adoption, at an annual
1870 meeting of the members of the federal association or at any special meeting of the
1871 members of the federal association called to consider the action. If the bylaws of the
1872 federal association do not require written notice of the annual or special meeting,
1873 written notice of the time, place, and purpose of such meeting shall be mailed by the
1874 federal association, postage prepaid, at least ten days prior to the date on which such
1875 meeting convenes, to each member of record of the federal association, but the
1876 mailing shall not be a condition precedent to, nor shall any defect in the mailing affect
1877 the validity of, the meeting. The adoption of the plan shall require the vote of fifty-
1878 one per cent or more of the votes cast by the members present in person or by proxy
1879 at such meeting.

1880 (C) Two copies of the minutes of such meeting, together with a statement
1881 showing the giving of the written notice, and two copies of the minutes of the meeting
1882 of the members of the board of the federal association, all verified by an affidavit of
1883 the secretary or other proper custodian of the records of the federal association, shall
1884 be filed both in the office of the superintendent of financial institutions and with the
1885 federal home loan bank board. Such verified copies, when filed, shall be presumptive
1886 evidence of the holding and action of such meeting.

1887 (D) A majority of the members of the board of the federal association,
1888 which majority shall consist of not less than three directors, a majority of whom are
1889 citizens of the United States, shall subscribe to, acknowledge, and file articles of
1890 incorporation in the office of the secretary of state. Two copies of the articles shall be
1891 filed with the federal home loan bank board. The articles shall set forth all of the
1892 following:

1893 (1) All statements required by divisions (A)(1), (2), and (3) of section
1894 | 1701.04 of the Revised Code and any desired provision authorized by divisions (B)-
1895 | ~~(3)~~, ~~(4)~~, (5), and (5)-6 of that section;

1896 (2) A statement showing that the state association is incorporated by
1897 conversion or reorganization from the federal association;

1898 (3) A statement showing the assumption by the state association of all
1899 shares, accounts, and liabilities of the federal association as of the date on which the

1900 conversion or reorganization is to be completed, and the manner in which each class
1901 of such shares, accounts, and liabilities will be discharged or adjusted by the state
1902 association.

1903 Upon receipt of the articles, the secretary of state shall forthwith transmit to
1904 the superintendent a copy of the articles. If it appears that the state association, if
1905 formed, will be entitled to commence the business for which it is organized, the
1906 superintendent shall so certify to the secretary of state, who shall record the articles
1907 upon that certificate.

1908 (E) On the day and hour of such recording, the federal association shall be
1909 deemed converted or reorganized into the state association, and upon that conversion
1910 or reorganization, both of the following apply:

1911 (1) All the federal association's property and assets, and every right,
1912 privilege, and interest then existing, belonging or pertaining to it or which would
1913 inure to it, immediately, without any conveyance or transfer and without any further
1914 act, shall be vested in and become the property of the successor state association,
1915 which shall hold and enjoy them in its own right, to the same extent as they were held
1916 and enjoyed by the federal association. All liens upon the property and assets of the
1917 federal association existing at the time of conversion shall be preserved unimpaired
1918 and limited in lien to the property or assets then affected by liens. This section does
1919 not deprive any person, firm, or corporation of any substantive right existing at the
1920 time of conversion against the federal association, nor of the right to enforce any such
1921 right of that nature by proceedings against the property and assets transferred by
1922 operation of this division, in the event and to the extent that the substantive right is
1923 not satisfied or adjusted by the successor state association in accordance with its
1924 articles.

1925 (2) The state association shall commence business and shall be subject to
1926 the laws of this state relating to domestic savings and loan associations.

1927 Any action or proceeding pending by or against the federal association at the
1928 time of the conversion or reorganization may be prosecuted to judgment, with right of
1929 appeal, as in other cases, as if the conversion or reorganization had not taken place, or
1930 the successor state association may be substituted for the federal association.

1931 A copy of the articles recorded in the office of the secretary of state, certified
1932 by the secretary of state under the seal of the secretary of state's office and showing
1933 the day and hour of recording, shall be recorded in the office of the county recorder of
1934 the county in which the federal association had its principal office or place of
1935 business at the time of its conversion or reorganization and in each county in the state
1936 in which the federal association owned real estate at the time of its conversion or
1937 reorganization, for which recording the recorder shall charge the same fees as for the
1938 recording of deeds. Two copies of the articles, as so recorded and certified and
1939 showing the date and hour of the recording, shall be filed with the federal home loan
1940 bank board.

1941 **Sec. 1151.61.** A savings and loan association may be reorganized, with the
1942 written consent of the deputy superintendent of savings and loan associations, in the
1943 following manner:

1944 (A) The board of directors may adopt a plan of reorganization, which may
1945 include any change in the articles of incorporation, including changes of issued or
1946 unissued shares, which could be effected by amendment to the articles, except as
1947 otherwise provided in this section; the increase or reduction of the authorized capital
1948 stock, the stock credits, and the fully paid and issued capital stock; the determination
1949 or redetermination of the fair value to the association of its tangible or intangible
1950 assets; the allotment of a part of the amount so determined or redetermined to stock
1951 credits and to fully paid and issued capital stock, and a part to the reserve fund; the
1952 retention as reserve and undivided profits of any of the existing reserve and undivided
1953 profits; the manner, terms, and basis of converting or exchanging shares; and any
1954 other details that the board considers necessary or desirable. The board shall not
1955 adopt, and the superintendent shall not approve, any plan that, by amendment to the
1956 articles or otherwise, changes the purpose of the association from that of a savings
1957 and loan association within the meaning of section 1151.01 of the Revised Code.

1958 (B) A special meeting of the stockholders shall be called, of which notice
1959 shall be given to each stockholder at the stockholder's last known post-office address
1960 as it appears on the records of the association, whether or not the stockholder is
1961 entitled to vote. At such meeting, the plan of reorganization, including any
1962 amendments of or additions to the plan proposed at the meeting, shall be considered,

1963 and a vote shall be taken on the question of its adoption. The adoption of the plan
1964 requires the vote, in person or by proxy, of the holders of fifty-one per cent of the
1965 stock. If the plan so provides, the board , within forty-five days after the day on which
1966 the vote is taken, may rescind the action of the shareholders if in its judgment the
1967 consummation of the plan will be against the best interests of the association because
1968 of the number of dissenting shareholders or the amount of stock owned by them.

1969 (C) All shareholders dissenting from such plan are entitled to relief in the
1970 manner and under the conditions provided in section 1701.85 of the Revised Code,
1971 except that when the plan includes only a reduction in the authorized capital stock, in
1972 the stock credits, and in the fully paid and issued capital stock, the filing of the
1973 dissenting shareholder's demand for payment of the fair cash value of the dissenting
1974 shareholder's stock credits shall constitute an application for withdrawal or
1975 repurchase, and the fair cash value of the dissenting shareholder's stock credits as
1976 finally determined in accordance with that section shall be payable only at the times
1977 that are permitted under the dissenting shareholder's right of withdrawal or repurchase
1978 at the time such an application is filed.

1979 (D) The plan shall become effective when it has been adopted by the
1980 shareholders and approved in writing by the superintendent, and the president or a
1981 vice-president, and the secretary or an assistant secretary, of the association have
1982 signed and filed in the office of the secretary of state a certificate of reorganization,
1983 with the consent of the superintendent endorsed on the certificate, containing a copy
1984 of the plan of reorganization, and also containing the following items, unless the item
1985 in question is included in the plan:

1986 (1) All statements required by divisions (A)(1), (2), and (3) of section
1987 1701.04 of the Revised Code to be included in the original articles of incorporation,
1988 and any provisions authorized by divisions ~~(B)(3),~~ (4), (5), and ~~(56)~~ of that section
1989 which are to remain in effect or to be included as part of the plan;

1990 (2) A statement of the amount of fully paid and issued capital stock, the
1991 amount of stock credits, and the amount of authorized capital stock, both before and
1992 after the reorganization.

1993 (E) An association whose plan of reorganization is disapproved by the
1994 superintendent, within thirty days after the disapproval and by leave of court first

1995 obtained, may file, in the court of common pleas of Franklin county or of the county
1996 in which the association has its principal place of business, an action against the
1997 superintendent, alleging the facts upon which it relies for a reversal of the
1998 superintendent's action and praying for such a reversal. The action of the
1999 superintendent shall not be reversed unless the court finds that the superintendent
2000 exceeded the superintendent's power or abused the superintendent's discretion in
2001 disapproving the plan.

2002 No order of court shall restrain the superintendent from making an
2003 examination of the association and its affairs at any time under sections 1155.09 and
2004 1155.10 of the Revised Code.

2005 **Sec. 1701.01.** As used in sections 1701.01 to 1701.98 of the Revised Code,
2006 unless the context otherwise requires:

2007 (A) "Corporation" or "domestic corporation" means a corporation for
2008 profit formed under the laws of this state.

2009 (B) "Foreign corporation" means a corporation for profit formed under the
2010 laws of another state, and "foreign entity" means an entity formed under the laws of
2011 another state.

2012 (C) "State" means the United States; any state, territory, insular
2013 possession, or other political subdivision of the United States, including the District
2014 of Columbia; any foreign country or nation; and any province, territory, or other
2015 political subdivision of such foreign country or nation.

2016 (D) "Articles" includes original articles of incorporation, certificates of
2017 reorganization, amended articles, and amendments to any of these, and, in the case of
2018 a corporation created before September 1, 1851, the special charter and any
2019 amendments to it made by special act of the general assembly or pursuant to general
2020 law.

2021 (E) "Incorporator" means a person who signed the original articles of
2022 incorporation.

2023 (F) "Shareholder" means a person whose name appears on the books of
2024 the corporation as the owner of shares of the corporation. Unless the articles, the
2025 regulations adopted by the shareholders, the regulations adopted by the directors
2026 pursuant to division (A)(1) of section 1701.10 of the Revised Code, or the contract of

2027 subscription otherwise provides, "shareholder" includes a subscriber to shares,
2028 whether the subscription is received by the incorporators or pursuant to authorization
2029 by the directors, and such shares shall be deemed to be outstanding shares.

2030 (G) "Person" includes, without limitation, a natural person, a corporation,
2031 whether nonprofit or for profit, a partnership, a limited liability company, an
2032 unincorporated society or association, and two or more persons having a joint or
2033 common interest.

2034 (H) The location of the "principal office" of a corporation is the place
2035 named as the principal office in its articles.

2036 (I) The "express terms" of shares of a class are the statements expressed
2037 in the articles with respect to such shares.

2038 (J) Shares of a class are "junior" to shares of another class when any of
2039 their dividend or distribution rights are subordinate to, or dependent or contingent
2040 upon, any right of, or dividend on, or distribution to, shares of such other class.

2041 (K) "Treasury shares" means shares belonging to the corporation and not
2042 retired that have been either issued and thereafter acquired by the corporation or paid
2043 as a dividend or distribution in shares of the corporation on treasury shares of the
2044 same class; such shares shall be deemed to be issued, but they shall not be considered
2045 as an asset or a liability of the corporation, or as outstanding for dividend or
2046 distribution, quorum, voting, or other purposes, except, when authorized by the
2047 directors, for dividends or distributions in authorized but unissued shares of the
2048 corporation of the same class.

2049 (L) To "retire" a share means to restore it to the status of an authorized but
2050 unissued share.

2051 (M) "Redemption price of shares" means the amount required by the
2052 articles to be paid on redemption of shares.

2053 (N) "Liquidation price" means the amount or portion of assets required by
2054 the articles to be distributed to the holders of shares of any class upon dissolution,
2055 liquidation, merger, or consolidation of the corporation, or upon sale of all or
2056 substantially all of its assets.

2057 (O) "Insolvent" means that the corporation is unable to pay its obligations
2058 as they become due in the usual course of its affairs.

2059 (P) "Parent corporation" or "parent" means a domestic or foreign
2060 corporation that owns and holds of record shares of another corporation, domestic or
2061 foreign, entitling the holder of the shares at the time to exercise a majority of the
2062 voting power in the election of the directors of the other corporation without regard to
2063 voting power that may thereafter exist upon a default, failure, or other contingency;
2064 "subsidiary corporation" or "subsidiary" means a domestic or foreign corporation of
2065 which another corporation, domestic or foreign, is the parent.

2066 (Q) "Combination" means a transaction, other than a merger or
2067 consolidation, wherein either of the following applies:

2068 (1) Voting shares of a domestic corporation are issued or transferred in
2069 consideration in whole or in part for the transfer to itself or to one or more of its
2070 subsidiaries, domestic or foreign, of all or substantially all the assets of one or more
2071 corporations, domestic or foreign, with or without good will or the assumption of
2072 liabilities;

2073 (2) Voting shares of a foreign parent corporation are issued or transferred
2074 in consideration in whole or in part for the transfer of such assets to one or more of its
2075 domestic subsidiaries.

2076 "Transferee corporation" in a combination means the corporation, domestic or
2077 foreign, to which the assets are transferred, and "transferor corporation" in a
2078 combination means the corporation, domestic or foreign, transferring such assets and
2079 to which, or to the shareholders of which, the voting shares of the domestic or foreign
2080 corporation are issued or transferred.

2081 (R) "Majority share acquisition" means the acquisition of shares of a
2082 corporation, domestic or foreign, entitling the holder of the shares to exercise a
2083 majority of the voting power in the election of directors of such corporation without
2084 regard to voting power that may thereafter exist upon a default, failure, or other
2085 contingency, by either of the following:

2086 (1) A domestic corporation in consideration in whole or in part, for the
2087 issuance or transfer of its voting shares;

2088 (2) A domestic or foreign subsidiary in consideration in whole or in part
2089 for the issuance or transfer of voting shares of its domestic parent.

2090 (S) "Acquiring corporation" in a combination means the domestic corporation
2091 whose voting shares are issued or transferred by it or its subsidiary or subsidiaries to
2092 the transferor corporation or corporations or the shareholders of the transferor
2093 corporation or corporations; and "acquiring corporation" in a majority share
2094 acquisition means the domestic corporation whose voting shares are issued or
2095 transferred by it or its subsidiary in consideration for shares of a domestic or foreign
2096 corporation entitling the holder of the shares to exercise a majority of the voting
2097 power in the election of directors of such corporation.

2098 (T) When used in connection with a combination or a majority share
2099 acquisition, "voting shares" means shares of a corporation, domestic or foreign,
2100 entitling the holder of the shares to vote at the time in the election of directors of such
2101 corporation without regard to voting power which may thereafter exist upon a default,
2102 failure, or other contingency.

2103 (U) "An emergency" exists when the governor, or any other person
2104 lawfully exercising the power and discharging the duties of the office of governor,
2105 proclaims that an attack on the United States or any nuclear, atomic, or other disaster
2106 has caused an emergency for corporations, and such an emergency shall continue
2107 until terminated by proclamation of the governor or any other person lawfully
2108 exercising the powers and discharging the duties of the office of governor.

2109 (V) "Constituent corporation" means an existing corporation merging into
2110 or into which is being merged one or more other entities in a merger or an existing
2111 corporation being consolidated with one or more other entities into a new entity in a
2112 consolidation, whether any of the entities is domestic or foreign, and "constituent
2113 entity" means any entity merging into or into which is being merged one or more
2114 other entities in a merger, or an existing entity being consolidated with one or more
2115 other entities into a new entity in a consolidation, whether any of the entities is
2116 domestic or foreign.

2117 (W) "Surviving corporation" means the constituent domestic or foreign
2118 corporation that is specified as the corporation into which one or more other
2119 constituent entities are to be or have been merged, and "surviving entity" means the
2120 constituent domestic or foreign entity that is specified as the entity into which one or
2121 more other constituent entities are to be or have been merged.

2122 (X) "Close corporation agreement" means an agreement that satisfies the
2123 three requirements of division (A) of section 1701.591 of the Revised Code.

2124 (Y) "Issuing public corporation" means a domestic corporation with fifty
2125 or more shareholders that has its principal place of business, its principal executive
2126 offices, assets having substantial value, or a substantial percentage of its assets within
2127 this state, and as to which no valid close corporation agreement exists under division
2128 (H) of section 1701.591 of the Revised Code.

2129 (Z)(1) "Control share acquisition" means the acquisition, directly or indirectly,
2130 by any person of shares of an issuing public corporation that, when added to all other
2131 shares of the issuing public corporation in respect of which the person may exercise
2132 or direct the exercise of voting power as provided in this division, would entitle the
2133 person, immediately after the acquisition, directly or indirectly, alone or with others,
2134 to exercise or direct the exercise of the voting power of the issuing public corporation
2135 in the election of directors within any of the following ranges of such voting power:

- 2136 (a) One-fifth or more but less than one-third of such voting power;
- 2137 (b) One-third or more but less than a majority of such voting power;
- 2138 (c) A majority or more of such voting power.

2139 A bank, broker, nominee, trustee, or other person that acquires shares in the
2140 ordinary course of business for the benefit of others in good faith and not for the
2141 purpose of circumventing section 1701.831 of the Revised Code shall, however, be
2142 deemed to have voting power only of shares in respect of which such person would
2143 be able, without further instructions from others, to exercise or direct the exercise of
2144 votes on a proposed control share acquisition at a meeting of shareholders called
2145 under section 1701.831 of the Revised Code.

2146 (2) The acquisition by any person of any shares of an issuing public
2147 corporation does not constitute a control share acquisition for the purpose of section
2148 1701.831 of the Revised Code if the acquisition was or is consummated in, results
2149 from, or is the consequence of any of the following circumstances:

- 2150 (a) Prior to November 19, 1982;
- 2151 (b) Pursuant to a contract existing prior to November 19, 1982;
- 2152 (c) By bequest or inheritance, by operation of law upon the death of an
2153 individual, or by any other transfer without valuable consideration, including a gift,

2154 that is made in good faith and not for the purpose of circumventing section 1701.831
2155 of the Revised Code;

2156 (d) Pursuant to the satisfaction of a pledge or other security interest
2157 created in good faith and not for the purpose of circumventing section 1701.831 of
2158 the Revised Code;

2159 (e) Pursuant to a merger or consolidation adopted, or a combination or
2160 majority share acquisition authorized, by vote of the shareholders of the issuing
2161 public corporation in compliance with section 1701.78, 1701.781, 1701.79, 1701.791,
2162 or 1701.83 of the Revised Code, or pursuant to a merger adopted in compliance with
2163 section 1701.802 of the Revised Code;

2164 (f) The person's being entitled, immediately thereafter, to exercise or
2165 direct the exercise of voting power of the issuing public corporation in the election of
2166 directors within the same range theretofore attained by that person either in
2167 compliance with the provisions of section 1701.831 of the Revised Code or as a result
2168 solely of the issuing public corporation's purchase of shares issued by it;

2169 (g) The person's being engaged in business as an underwriter of securities
2170 who acquires the shares directly from the issuing public corporation or an affiliate or
2171 associate of the issuing public corporation through its participation in good faith in a
2172 firm commitment underwriting registered under the "Securities Act of 1933," 15
2173 U.S.C. 77a et seq., and not for the purpose of circumventing section 1701.831 of the
2174 Revised Code.

2175 The acquisition by any person of shares of an issuing public corporation in a
2176 manner described under division (Z)(2) of this section shall be deemed a control share
2177 acquisition authorized pursuant to section 1701.831 of the Revised Code within the
2178 range of voting power under division (Z)(1)(a), (b), or (c) of this section that such
2179 person is entitled to exercise after the acquisition, provided, in the case of an
2180 acquisition in a manner described under division (Z)(2)(c) or (d) of this section, the
2181 transferor of shares to such person had previously obtained any authorization of
2182 shareholders required under section 1701.831 of the Revised Code in connection with
2183 the transferor's acquisition of shares of the issuing public corporation.

2184 (3) The acquisition of shares of an issuing public corporation in good faith
2185 and not for the purpose of circumventing section 1701.831 of the Revised Code from

2186 any person whose control share acquisition previously had been authorized by
2187 shareholders in compliance with section 1701.831 of the Revised Code, or from any
2188 person whose previous acquisition of shares of an issuing public corporation would
2189 have constituted a control share acquisition but for division (Z)(2) or (3) of this
2190 section, does not constitute a control share acquisition for the purpose of section
2191 1701.831 of the Revised Code unless such acquisition entitles the person making the
2192 acquisition, directly or indirectly, alone or with others, to exercise or direct the
2193 exercise of voting power of the corporation in the election of directors in excess of
2194 the range of voting power authorized pursuant to section 1701.831 of the Revised
2195 Code, or deemed to be so authorized under division (Z) (2) of this section.

2196 (AA) "Acquiring person" means any person who has delivered an acquiring
2197 person statement to an issuing public corporation pursuant to section 1701.831 of the
2198 Revised Code.

2199 (BB) "Acquiring person statement" means a written Statement that complies
2200 with division (B) of section 1701.831 of the Revised Code.

2201 (cc) (1) "Interested shares" means the shares of an issuing public corporation
2202 in respect of which any of the following persons may exercise or direct the exercise
2203 of the voting power of the corporation in the election of directors:

2204 (a) An acquiring person;

2205 (b) Any officer of the issuing public corporation elected or appointed by
2206 the directors of the issuing public corporation;

2207 (c) Any employee of the issuing public corporation who is also a director
2208 of such corporation;

2209 (d) Any person that acquires such shares for valuable consideration during
2210 the period beginning with the date of the first public disclosure of a proposal for, or
2211 expression of interest in, a control share acquisition of the issuing public corporation;
2212 a transaction pursuant to section 1701.76, 1701.78, 1701.781, 1701.79, 1701.791,
2213 1701.83, or 1701.86 of the Revised Code that involves the issuing public corporation
2214 or its assets; or any action that would directly or indirectly result in a change in
2215 control of the issuing public corporation or its assets, and ending on the record date
2216 established by the directors pursuant to section 1701.45 and division (D) of section
2217 1701.831 of the Revised Code, if either of the following applies:

2218 (i) The aggregate consideration paid or given by the person who acquired
2219 the shares, and any other persons acting in concert with the person, for all such shares
2220 exceeds two hundred fifty thousand dollars;

2221 (ii) The number of shares acquired by the person who acquired the shares,
2222 and any other persons acting in concert with the person, exceeds one-half of one per
2223 cent of the outstanding shares of the corporation entitled to vote in the election of
2224 directors.

2225 (e) Any person that transfers such shares for valuable consideration after
2226 the record date described in division (CC) (1)(d) of this section as to shares so
2227 transferred, if accompanied by the voting power in the form of a blank proxy, an
2228 agreement to vote as instructed by the transferee, or otherwise.

2229 (2) If any part of this division is held to be illegal or invalid in application,
2230 the illegality or invalidity does not affect any legal and valid application thereof or
2231 any other provision or application of this division or section 1701.831 of the Revised
2232 Code that can be given effect without the invalid or illegal provision, and the parts
2233 and applications of this division are severable.

2234 (DD) "Certificated security" and "uncertificated security" have the same
2235 meanings as in section 1308.01 of the Revised Code.

2236 (EE) "Entity" means any of the following:

2237 (1) A for profit corporation existing under the laws of this state or any
2238 other state;

2239 (2) Any of the following organizations existing under the laws of this
2240 state, the United States, or any other state:

2241 (a) A business trust or association;

2242 (b) A real estate investment trust;

2243 (c) A common law trust;

2244 (d) An unincorporated business or for profit organization, including a
2245 general or limited partnership;

2246 (e) A limited liability company;

2247 (f) A nonprofit corporation.

2248 (FF) "Benefit corporation" means a corporation that sets forth in its articles
2249 of incorporation one or more beneficial purposes among the purposes for which the
2250 corporation is formed.

2251 (GG) "Beneficial purpose" means seeking to have a bona fide positive
2252 effect or to reduce one or more bona fide negative effects on persons, entities,
2253 communities, or interests other than shareholders in their capacity as shareholders,
2254 including effects of an artistic, charitable, cultural, economic, educational,
2255 environmental, literary, medical, religious, scientific, or technological nature.

2256 **Sec. 1701.03.** ~~(A)~~(1) A corporation may be formed under this chapter for
2257 any purpose or combination of purposes for which individuals lawfully may associate
2258 themselves, except that, if the Revised Code contains special provisions pertaining to
2259 the formation of any designated type of corporation other than a professional
2260 association, as defined in section 1785.01 of the Revised Code, a corporation of that
2261 type shall be formed in accordance with the special provisions.

2262 (2) The purpose for which a corporation is formed may include a
2263 beneficial purpose. Except to the extent that the articles otherwise provide, both of
2264 the following apply:

2265 (a) Having a beneficial purpose does not prevent a corporation from
2266 seeking any of the other purposes for which the corporation is formed, including
2267 operation of the corporation for pecuniary gain or profit and distribution of net
2268 earnings.

2269 (b) No particular purpose of a corporation has priority over any other
2270 purpose of the corporation.

2271 (3) A corporation that does not have a beneficial purpose
2272 is not required to operate exclusively for profit or distribution of net earnings of the
2273 corporation in all instances.

2274 (4) To be effective, a beneficial purpose shall be expressly provided in the
2275 articles. A statement of purpose in the articles that includes any purpose or
2276 combination of purposes for which individuals lawfully may associate themselves,
2277 without the express provision of a beneficial purpose, does not establish a beneficial
2278 purpose as a purpose of the corporation.

2279 (B) On and after July 1, 1994, a corporation may be formed under this
2280 chapter for the purpose of carrying on the practice of any profession, including, but
2281 not limited to, a corporation for the purpose of providing public accounting or
2282 certified public accounting services, a corporation for the erection, owning, and
2283 conducting of a sanitarium for receiving and caring for patients, medical and hygienic
2284 treatment of patients, and instruction of nurses in the treatment of disease and in
2285 hygiene, a corporation for the purpose of providing architectural, landscape
2286 architectural, professional engineering, or surveying services or any combination of
2287 those types of services, and a corporation for the purpose of providing a combination
2288 of the professional services, as defined in section 1785.01 of the Revised Code, of
2289 optometrists authorized under Chapter 4725. of the Revised Code, chiropractors
2290 authorized under Chapter 4734. of the Revised Code to practice chiropractic or
2291 acupuncture, psychologists authorized under Chapter 4732. of the Revised Code,
2292 registered or licensed practical nurses authorized under Chapter 4723. of the Revised
2293 Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical
2294 therapists authorized under sections 4755.40 to 4755.56 of the Revised Code,
2295 occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised
2296 Code, mechanotherapists authorized under section 4731.151 of the Revised Code,
2297 doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric
2298 medicine and surgery authorized under Chapter 4731. of the Revised Code, and
2299 licensed professional clinical counselors, licensed professional counselors,
2300 independent social workers, social workers, independent marriage and family
2301 therapists, or marriage and family therapists authorized under Chapter 4757. of the
2302 Revised Code.

2303 This chapter does not restrict, limit, or otherwise affect the authority or
2304 responsibilities of any agency, board, commission, department, office, or other entity
2305 to license, register, and otherwise regulate the professional conduct of individuals or
2306 organizations of any kind rendering professional services, as defined in section
2307 1785.01 of the Revised Code, in this state or to regulate the practice of any profession
2308 that is within the jurisdiction of the agency, board, commission, department, office, or
2309 other entity, notwithstanding that an individual is a director, officer, employee, or
2310 other agent of a corporation formed under this chapter and is rendering professional

2311 services or engaging in the practice of a profession through a corporation formed
2312 under this chapter or that the organization is a corporation formed under this chapter.

2313 (C) Nothing in division (A) or (B) of this section precludes the
2314 organization of a professional association in accordance with this chapter and Chapter
2315 1785. of the Revised Code or the formation of a limited liability company under
2316 Chapter 1705. of the Revised Code with respect to a business, as defined in section
2317 1705.01 of the Revised Code.

2318 (D) No corporation formed for the purpose of providing a combination of
2319 the professional services, as defined in section 1785.01 of the Revised Code, of
2320 optometrists authorized under Chapter 4725. of the Revised Code, chiropractors
2321 authorized under Chapter 4734. of the Revised Code to practice chiropractic or
2322 acupuncture, psychologists authorized under Chapter 4732. of the Revised Code,
2323 registered or licensed practical nurses authorized under Chapter 4723. of the Revised
2324 Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical
2325 therapists authorized under sections 4755.40 to 4755.56 of the Revised Code,
2326 occupational therapists authorized under sections 4755.04 to 4755.13 of the Revised
2327 Code, mechanotherapists authorized under section 4731.151 of the Revised Code,
2328 doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric
2329 medicine and surgery authorized under Chapter 4731. of the Revised Code, and
2330 licensed professional clinical counselors, licensed professional counselors,
2331 independent social workers, social workers, independent marriage and family
2332 therapists, or marriage and family therapists authorized under Chapter 4757. of the
2333 Revised Code shall control the professional clinical judgment exercised within
2334 accepted and prevailing standards of practice of a licensed, certificated, or otherwise
2335 legally authorized optometrist, chiropractor, chiropractor practicing acupuncture
2336 through the state chiropractic board, psychologist, nurse, pharmacist, physical
2337 therapist, occupational therapist, mechanotherapist, doctor of medicine and surgery,
2338 osteopathic medicine and surgery, or podiatric medicine and surgery, licensed
2339 professional clinical counselor, licensed professional counselor, independent social
2340 worker, social worker, independent marriage and family therapist, or marriage and
2341 family therapist in rendering care, treatment, or professional advice to an individual
2342 patient.

2343 This division does not prevent a hospital, as defined in section 3727.01 of the
2344 Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or
2345 intermediary organization, as defined in section 1751.01 of the Revised Code, from
2346 entering into a contract with a corporation described in this division that includes a
2347 provision requiring utilization review, quality assurance, peer review, or other
2348 performance or quality standards. Those activities shall not be construed as
2349 controlling the professional clinical judgment of an individual practitioner listed in
2350 this division.

2351 **Sec. 1701.04.** (A) Any person, singly or jointly with others, and without
2352 regard to residence, domicile, or state of incorporation, may form a corporation by
2353 signing and filing with the secretary of state articles of incorporation that shall set
2354 forth all of the following:

- 2355 (1) The name of the corporation, which shall be in compliance with
2356 division (A) of section 1701.05 of the Revised Code;
- 2357 (2) The place in this state where the principal office of the corporation is
2358 to be located;
- 2359 (3) The authorized number and the par value per share of shares with par
2360 value, and the authorized number of shares without par value, except that the articles
2361 of a banking, safe deposit, trust, or insurance corporation shall not authorize shares
2362 without par value; the express terms, if any, of the shares; and, if the shares are
2363 classified, the designation of each class, the authorized number and par value per
2364 share, if any, of the shares of each class, and the express terms of the shares of each
2365 class;
- 2366 (4) If the corporation is to have an initial stated capital, the amount of that
2367 stated capital.

2368 (B) The articles also may set forth any of the following:

- 2369 (1) The names of the individuals who are to serve as initial directors;
- 2370 (2) The purpose or purposes for which the corporation is formed, but in
2371 the absence of a statement of the purpose or purposes or except as expressly set forth
2372 in such statement, the purpose for which any corporation is formed is to engage in
2373 any lawful act or activity for which a corporation may be formed under this chapter,

2374 and all lawful acts and activities of the corporation are within the purposes of the
2375 corporation;

2376 ~~(3)~~—(3) Any priority or other method for balancing the purposes for
2377 which the corporation is formed;

2378 (4) Any lawful provision for the purpose of defining, limiting, or
2379 regulating the exercise of the authority of the corporation, the incorporators, the
2380 directors, the officers, the shareholders, or the holders of any class of shares;

2381 (45) Any provision that may be set forth in the regulations;

2382 (56) A provision specifying the period of existence of the corporation if it is
2383 to be otherwise than perpetual;

2384 (67) A provision eliminating the right of every shareholder to vote
2385 cumulatively in the election of directors;

2386 (78) Any additional provision permitted by this chapter.

2387 (C) A written appointment of a statutory agent for the purposes set forth in
2388 section 1701.07 of the Revised Code shall be filed with the articles, unless the
2389 corporation belongs to one of the classes mentioned in division (O) of that section.

2390 (D) The legal existence of the corporation begins upon the filing of the
2391 articles or on a later date specified in the articles that is not more than ninety days
2392 after filing, and, unless the articles otherwise provide, its period of existence shall be
2393 perpetual.

2394 **Sec. 1701.05.** (A) Except as provided in this section, and in sections 1701.75,
2395 1701.78, and 1701.82 of the Revised Code, which sections relate to the
2396 reorganization, merger, and consolidation of corporations, the corporate name of a
2397 domestic corporation shall comply with all of the following:

2398 (1) It shall end with or include the word or abbreviation "company," "co.,"
2399 "corporation," "corp.," "incorporated," or "inc."

2400 ~~(2)~~—(2) It shall not include the word "benefit" or "b-" in its name
2401 immediately preceding the word "company," "co.," "corporation," "corp.," -
2402 "incorporated," or "inc.," unless the corporation is a benefit corporation or had a name
2403 which included such combination of words prior to [insert effective date of this
2404 legislation].

2405 | (3) It shall be distinguishable upon the records in the office of the
2406 secretary of state from all of the following:

2407 (a) The name of any other corporation, whether nonprofit or for profit and
2408 whether that of a domestic or of a foreign corporation authorized to do business in
2409 this state;

2410 (b) The name of any limited liability company registered in the office of
2411 the secretary of state pursuant to Chapter 1705. of the Revised Code, whether
2412 domestic or foreign;

2413 (c) The name of any limited liability partnership registered in the office of
2414 the secretary of state pursuant to Chapter 1775. or 1776. of the Revised Code,
2415 whether domestic or foreign;

2416 (d) The name of any limited partnership registered in the office of the
2417 secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or
2418 foreign;

2419 (e) Any trade name the exclusive right to which is at the time in question
2420 registered in the office of the secretary of state pursuant to Chapter 1329. of the
2421 Revised Code.

2422 | (34) It shall not contain any language that indicates or implies that the
2423 corporation is connected with a government agency of this state, another state, or the
2424 United States.

2425 (B) The secretary of state shall determine for purposes of this section
2426 whether a name is "distinguishable" from another name upon the secretary of state's
2427 records. Without excluding other names that may not constitute distinguishable
2428 names in this state, a name is not considered distinguishable from another name for
2429 purposes of this section solely because it differs from the other name in only one or
2430 more of the following manners:

2431 (1) The use of the word "corporation," "company," "incorporated,"
2432 "limited," or any abbreviation of any of those words;

2433 (2) The use of any article, conjunction, contraction, abbreviation, or
2434 punctuation;

2435 (3) The use of a different tense or number of the same word.

2436 (C) A corporation may apply to the secretary of state for authorization to
2437 use a name that is not distinguishable upon the secretary of state's records from the
2438 name of any other corporation, limited liability company, limited liability partnership,
2439 or limited partnership, or from a registered trade name, if there also is filed in the
2440 office of the secretary of state, on a form prescribed by the secretary of state, the
2441 consent of the other entity or, in the case of a registered trade name, the person in
2442 whose name is registered the exclusive right to use the name, which consent is
2443 evidenced in a writing signed by any authorized officer or any authorized
2444 representative of the other entity or person.

2445 (D) In case of judicial sale or judicial transfer, by sale or transfer of good
2446 will or otherwise, of the right to use the name of a corporation, whether nonprofit or
2447 for profit, and whether that of a domestic corporation or of a foreign corporation
2448 authorized to exercise its corporate privileges in this state or to do business in this
2449 state, the secretary of state, at the instance of the purchaser or transferee of such right,
2450 shall accept for filing articles of a corporation with a name the same as or similar to
2451 the name of such other corporation, if there also is filed in the office of the secretary
2452 of state a certified copy of the decree or order of court confirming or otherwise
2453 evidencing the purchase or transfer.

2454 (E) Any person who wishes to reserve a name for a proposed new
2455 corporation, or any corporation intending to change its name, may submit to the
2456 secretary of state a written application, on a form prescribed by the secretary of state,
2457 for the exclusive right to use a specified name as the name of a corporation. If the
2458 secretary of state finds that, under this section, the specified name is available for
2459 such use, the secretary of state shall file the application and, from the date of the
2460 filing, the applicant shall have the exclusive right for one hundred eighty days to use
2461 the specified name as the name of a corporation, counting the date of such filing as
2462 the first of one hundred eighty days. The right so obtained may be transferred by the
2463 applicant or other holder thereof by the filing in the office of the secretary of state of
2464 a written transfer, on a form prescribed by the secretary of state, stating the name and
2465 address of the transferee.

2466 **Sec. 1701.38.** (A) At the annual meeting of shareholders, or the meeting held
2467 in lieu of it, every corporation, except a banking corporation, shall lay before the

2468 | shareholders financial statements, which may be consolidated, and, as applicable,
2469 | written statements or reports, consisting of:

2470 | (1) A balance sheet containing a summary of the assets, liabilities, stated
2471 | capital, if any, and surplus (showing separately any capital surplus arising from
2472 | unrealized appreciation of assets, other capital surplus, and earned surplus) as of the
2473 | end of the corporation's most recent fiscal year, except that, if consolidated financial
2474 | statements are laid before the shareholders, the consolidated balance sheet shall show
2475 | separately or disclose by a note the amount of consolidated surplus that does not
2476 | constitute under the Revised Code earned surplus of the corporation or any of its
2477 | subsidiaries and that is not classified as stated capital or capital surplus on the
2478 | consolidated balance sheet;

2479 | (2) A statement of profit and loss and surplus, including a summary of
2480 | profits, dividends or distributions paid, and other changes in the surplus accounts, for
2481 | the period commencing with the date marking the end of the period for which the last
2482 | preceding statement of profit and loss required under this section was made and
2483 | ending with the date of the balance sheet or, in the case of the first statement of profit
2484 | and loss, for the period commencing with the date of incorporation of the corporation
2485 | and ending with the date of the balance sheet;

2486 | (3) If the corporation is a benefit corporation, any written statement or
2487 | report required by the articles, regulations, or a written agreement of the benefit
2488 | corporation concerning the beneficial purposes of the benefit corporation and the
2489 | activities of the benefit corporation toward those beneficial purposes and related
2490 | provisions set forth in the corporation's articles.

2491 | (B) The financial statements shall have appended to them an opinion
2492 | signed by the president or a vice-president or the treasurer or an assistant treasurer of
2493 | the corporation or by a public accountant or firm of public accountants to the effect
2494 | that the financial statement presents fairly the financial position of the corporation
2495 | and the results of its operations in conformity with generally accepted accounting
2496 | principles applied on a basis consistent with that of the preceding period, or to the
2497 | effect that the financial statements have been prepared on the basis of accounting
2498 | practices and principles that are reasonable in the circumstances.

2499 (C) Upon request of any shareholder made in writing or by any other
2500 means of communication authorized by the corporation prior to the date of the
2501 meeting described in division (A) of this section, the corporation shall send a copy of
2502 ~~the any~~ financial statements, written statements, and reports, as applicable, laid or to
2503 be laid before the shareholders at the meeting to the shareholder by mail, overnight
2504 delivery service, or any other means of communication authorized by the shareholder
2505 to whom the copy is sent on or before the later of the following:

- 2506 (1) The fifth day after the receipt of the written request;
2507 (2) The earlier of the following:
2508 (a) The fifth day before the date of the meeting;
2509 (b) The fifth day after the expiration of four months from the date of the
2510 balance sheet described in division (A)(1) of this section.

2511 (D) If the meeting described in division (A) of this section is to be held
2512 solely by means of communications equipment, the corporation shall make the
2513 financial statements, written statements, and reports described in that division, as
2514 applicable, open to the examination of any shareholder or proxyholder during the
2515 whole time of the meeting on a reasonably accessible electronic network. The
2516 directors may adopt guidelines and procedures to permit the corporation to verify that
2517 any person accessing the financial statements, written statements, or reports is a
2518 shareholder or proxyholder.

2519 **Sec. 1701.59.** (A) Except where the law, the articles, or the regulations require
2520 action to be authorized or taken by shareholders, all of the authority of a corporation
2521 shall be exercised by or under the direction of its directors. For their own government,
2522 the directors may adopt bylaws that are not inconsistent with the articles or the
2523 regulations. The selection of a time frame for the achievement of corporate goals shall
2524 be the responsibility of the directors.

2525 (B) A director shall perform the director's duties as a director, including
2526 the duties as a member of any committee of the directors upon which the director may
2527 serve, in good faith, in a manner the director reasonably believes to be in or not
2528 opposed to the best interests of the corporation, and with the care that an ordinarily
2529 prudent person in a like position would use under similar circumstances. A director
2530 serving on a committee of directors is acting as a director.

2531 (C) In performing a director's duties, a director is entitled to rely on
2532 information, opinions, reports, or statements, including financial statements and other
2533 financial data, that are prepared or presented by any of the following:

2534 (1) One or more directors, officers, or employees of the corporation who
2535 the director reasonably believes are reliable and competent in the matters prepared or
2536 presented;

2537 (2) Counsel, public accountants, or other persons as to matters that the
2538 director reasonably believes are within the person's professional or expert
2539 competence;

2540 (3) A committee of the directors upon which the director does not serve,
2541 duly established in accordance with a provision of the articles or the regulations, as to
2542 matters within its designated authority, which committee the director reasonably
2543 believes to merit confidence.

2544 (D) For purposes of division (B) of this section, the following apply:

2545 (1) A director shall not be found to have violated the director's duties under
2546 division (B) of this section unless it is proved by clear and convincing evidence that
2547 the director has not acted in good faith, in a manner the director reasonably believes
2548 to be in or not opposed to the best interests of the corporation, or with the care that an
2549 ordinarily prudent person in a like position would use under similar circumstances, in
2550 any action brought against a director, including actions involving or affecting any of
2551 the following:

2552 (a) A change or potential change in control of the corporation, including a
2553 determination to resist a change or potential change in control made pursuant to
2554 division (F)(7) of section 1701.13 of the Revised Code;

2555 (b) A termination or potential termination of the director's service to the
2556 corporation as a director;

2557 (c) The director's service in any other position or relationship with the
2558 corporation.

2559 (2) A director shall not be considered to be acting in good faith if the
2560 director has knowledge concerning the matter in question that would cause reliance
2561 on information, opinions, reports, or statements that are prepared or presented by the
2562 persons described in divisions (C)(1) to (3) of this section to be unwarranted.

2563 ~~(3)~~—(3) A director's duties under division (B) of this section are not
2564 owed by a director of a benefit corporation to a person who is a beneficiary of a
2565 beneficial purpose of the benefit corporation based solely on the status of that person
2566 as a beneficiary.

2567 (4) Nothing contained in this division limits relief available under section
2568 1701.60 of the Revised Code.

2569 (E) A director shall be liable in damages for any action that the director
2570 takes or fails to take as a director only if it is proved by clear and convincing evidence
2571 in a court of competent jurisdiction that the director's action or failure to act involved
2572 an act or omission undertaken with deliberate intent to cause injury to the corporation
2573 or undertaken with reckless disregard for the best interests of the corporation.
2574 Nothing contained in this division affects the liability of directors under section
2575 1701.95 of the Revised Code or limits relief available under section 1701.60 of the
2576 Revised Code. This division does not apply if, and only to the extent that, at the time
2577 of a director's act or omission that is the subject of complaint, the articles or the
2578 regulations of the corporation state by specific reference to this division that the
2579 provisions of this division do not apply to the corporation.

2580 (F) For purposes of this section, a director, in determining what the
2581 director reasonably believes to be in the best interests of the corporation, shall
2582 consider the interests of the corporation's shareholders and, ~~in the director's~~
2583 ~~discretion, may any beneficial purposes and related provisions set forth in the~~
2584 corporation's articles. The director shall consider any priority among purposes
2585 provided in the corporation's articles and shall consider any other method for
2586 balancing the purposes of the corporation that is set forth in the corporation's articles.
2587 In addition, the director may, in the director's discretion, consider any of the
2588 following:

2589 (1) The interests of the corporation's employees, suppliers, creditors, and
2590 customers;

2591 (2) The economy of the state and nation;

2592 (3) Community and societal considerations;

2593 (4) The long-term as well as short-term interests of the corporation and its
2594 shareholders, including the possibility that these interests or any beneficial purpose

2595 | set forth in the corporation's articles may be best served by the continued
2596 independence of the corporation.

2597 (G) Nothing contained in division (D) or (E) of this section affects the
2598 duties of either of the following:

2599 (1) A director who acts in any capacity other than the director's capacity
2600 as a director;

2601 (2) A director of a corporation that does not have issued and outstanding
2602 shares that are listed on a national securities exchange or are regularly quoted in an
2603 over-the-counter market by one or more members of a national or affiliated securities
2604 association, who votes for or assents to any action taken by the directors of the
2605 corporation that, in connection with a change in control of the corporation, directly
2606 results in the holder or holders of a majority of the outstanding shares of the
2607 corporation receiving a greater consideration for their shares than other shareholders.

2608 **Sec. 1701.591.** (A) In order to qualify as a close corporation agreement under
2609 this section, the agreement shall meet the following requirements:

2610 (1) Every person who is a shareholder of the corporation at the time of the
2611 agreement's adoption, whether or not entitled to vote, shall have assented to the
2612 agreement in writing;

2613 (2) The agreement shall be set forth in the articles, the regulations, or
2614 another written instrument;

2615 (3) The agreement shall include a statement that it is to be governed by
2616 this section.

2617 (B) A close corporation agreement that is not set forth in the articles or the
2618 regulations shall be entered in the record of minutes of the proceedings of the
2619 shareholders of the corporation and shall be subject to the provisions of division (C)
2620 of section 1701.92 of the Revised Code.

2621 (C) Irrespective of any other provisions of this chapter, but subject to
2622 division (D)(2) of this section, a close corporation agreement may contain provisions,
2623 which shall be binding on the corporation and all of its shareholders, regulating any
2624 aspect of the internal affairs of the corporation or the relations of the shareholders
2625 among themselves, including the following:

- 2626 (1) Regulation of the management of the business and affairs of the
2627 corporation;
- 2628 (2) The right of one or more shareholders to dissolve the corporation at
2629 will or on the occurrence of a specified event or contingency;
- 2630 (3) The obligation to vote the shares of a person as specified, or voting
2631 requirements, including the requirement of the affirmative vote or approval of all
2632 shareholders or of all directors, which voting requirements need not appear in the
2633 articles unless the close corporation agreement is set forth in the articles;
- 2634 (4) The designation of the persons who shall be the officers or directors of
2635 the corporation;
- 2636 (5) The authority of any individual who holds more than one office of the
2637 corporation to execute, acknowledge, or certify in more than one capacity any
2638 instrument required to be executed, acknowledged, or certified by the holders of two
2639 or more offices;
- 2640 (6) The terms and conditions of employment of an officer or employee of
2641 the corporation without regard to the period of employment;
- 2642 (7) The declaration and payment of dividends or distributions or the
2643 division of profits;
- 2644 (8) Elimination of the board of directors, restrictions upon the exercise by
2645 directors of their authority, or delegation to one or more shareholders or other persons
2646 of all or part of the authority of the directors;
- 2647 (9) Conferring on any shareholder or agent of a shareholder the absolute
2648 right, without the necessity of stating any purpose, to examine and copy during usual
2649 business hours any of the corporation's records or documents to which reference is
2650 made in section 1701.37 of the Revised Code;
- 2651 (10) Prohibition of or limitation upon the issuance or sale by the
2652 corporation of any of its shares, including treasury shares, without the affirmative
2653 vote or approval of the holders of all or a proportion of the outstanding shares or
2654 unless other specified terms and conditions are met;
- 2655 (11) Arbitration of issues on which the shareholders are deadlocked in
2656 voting power or on which the directors or other parties managing the corporation are
2657 deadlocked;

2658 (12) Dispensing with the annual meeting of shareholders unless a
2659 shareholder, by written notice to the president or secretary either by personal delivery
2660 or by mail within thirty days after the end of the most recent fiscal year of the
2661 corporation, requests that the meeting be held.

2662 (D) Except as may be necessary to give effect to divisions (C)(3), (5), (8),
2663 (9), and (12) and division (I) of this section, any provision of a close corporation
2664 agreement that does either of the following shall be invalid:

2665 (1) Eliminates the filing with the secretary of state of any document
2666 required under this chapter or changes the required form or content of the document;

2667 (2) Waives or alters the effect of any of the provisions of section 1701.03,
2668 1701.18, 1701.24, 1701.25, 1701.30, 1701.31, 1701.32, 1701.33, 1701.35, 1701.37,
2669 1701.38, 1701.39, 1701.591, 1701.91, 1701.93, 1701.94, 1701.95, or the first
2670 sentence of section 1701.64 of the Revised Code.

2671 Unless otherwise provided in the close corporation agreement, the invalidity
2672 of a provision pursuant to this division does not affect the validity of the remainder of
2673 the agreement.

2674 Any certificate that is required to be filed with the secretary of state with
2675 respect to the authorization or taking of any action pursuant to a close corporation
2676 agreement that would not be permitted under this chapter in the absence of division
2677 (C) of this section shall recite the existence of a close corporation agreement that
2678 authorizes the action.

2679 (E)(1) Except as provided in division (E)(2) of this section, a close
2680 corporation agreement may be amended or terminated by the affirmative vote or
2681 written consent of the holders, then parties to the close corporation agreement, of all
2682 of the outstanding shares of each class or, as may be provided by the close
2683 corporation agreement, of the holders, then parties to the close corporation agreement,
2684 of a proportion of not less than four-fifths of the outstanding shares of each class. If a
2685 close corporation agreement is amended or terminated by the written consent of the
2686 holders of fewer than all of the shares, the secretary of the corporation shall mail a
2687 copy of the amendment or a notice of the termination to each shareholder who did not
2688 so consent. If a close corporation agreement set forth in the articles is amended, the
2689 amendment shall not be effective unless it is filed as an amendment to the articles

2690 pursuant to section 1701.73 of the Revised Code. No corporation with respect to
2691 which a close corporation agreement is in effect shall cause to occur any of the
2692 actions described in division (I)(1)(a), (b), or (c) of this section unless the action has
2693 been authorized by the affirmative vote or written consent of the holders, then parties
2694 to the close corporation agreement, of that proportion of shares of each class that is
2695 required to terminate the close corporation agreement.

2696 (2) A close corporation agreement that was in existence on December 31,
2697 1993, and that did not specify on that date and that has not specified since that date
2698 the proportion of shares required to amend or terminate the close corporation
2699 agreement may be amended or terminated by the affirmative vote or written consent
2700 of the holders, then parties to the close corporation agreement, of four-fifths of the
2701 outstanding shares of each class.

2702 (F) No close corporation agreement is invalid among the parties or in
2703 respect of the corporation on any of the following grounds:

2704 (1) The agreement is an attempt to treat the corporation as if it were a
2705 partnership or to arrange the relationship of the parties in a manner that would be
2706 appropriate only among partners;

2707 (2) The agreement provides for the conduct of the affairs of a corporation
2708 or relations among shareholders in any manner that would be inappropriate or
2709 unlawful under provisions of this chapter other than those set forth in division (D)(2)
2710 of this section or under other applicable law;

2711 (3) The agreement interferes with the authority or discretion of the
2712 directors;

2713 (4) The agreement has not been filed with the minutes as required by
2714 division (B) of this section.

2715 (G) If a close corporation agreement provides that there shall be no board
2716 of directors, both of the following apply:

2717 (1) The shareholders, for the purposes of any statute or rule of law relating
2718 to corporations, are deemed to be the directors and to have all of the liabilities,
2719 immunities, defenses, and indemnifications of directors with respect to any action or
2720 inaction of the corporation, except that any shareholder who is not permitted by the
2721 articles, the regulations, or the close corporation agreement to vote on or assent to an

2722 action or assent to an inaction shall not be liable as a director with respect to the
2723 action or inaction.

2724 (2) Except to the extent that the voting rights of the shares of a class are
2725 increased, limited, or denied by the articles, the regulations, or the close corporation
2726 agreement, each outstanding share regardless of class shall entitle its holder to one
2727 vote on each matter, including any matter normally voted on by directors, that is
2728 properly submitted to the shareholders for their vote, consent, waiver, release, or
2729 other action.

2730 (H) The existence of a close corporation agreement shall be noted
2731 conspicuously on the face or the back of every certificate for shares of the corporation
2732 and a purchaser or transferee of shares represented by a certificate on which such a
2733 notation so appears shall be conclusively considered to have taken delivery with
2734 notice of the close corporation agreement. Any transferee of shares by gift, bequest,
2735 or inheritance and any purchaser or transferee of shares with knowledge or notice of a
2736 close corporation agreement is bound by the agreement and shall be considered to be
2737 a party to the agreement.

2738 (I)(1) A close corporation agreement becomes invalid under any of the
2739 following circumstances:

2740 (a) Shares of the corporation are listed on a national securities exchange.

2741 (b) Shares of the corporation are registered under section 12(g) of the
2742 "Securities Exchange Act of 1934," 48 Stat. 892, 15 U.S.C. 781, as amended.

2743 (c) Shares of the corporation have been included in a registration
2744 statement that has become effective pursuant to the "Securities Act of 1933," 84 Stat.
2745 74, 15 U.S.C. 77a-77aa, and the corporation is required to file periodic reports and
2746 information pursuant to section 15(d) of the "Securities Exchange Act of 1934," 48
2747 Stat. 892, 15 U.S.C. 77m, as amended.

2748 (d) Shares of the corporation are transferred or issued to a person who
2749 takes delivery of the certificate for the shares other than by gift, bequest, or
2750 inheritance and without knowledge or notice of the close corporation agreement; that
2751 person delivers to the corporation a written rejection of the close corporation
2752 agreement within ninety days after the date on which that person first received notice
2753 of the existence of the close corporation agreement or within three years of the date of

2754 transfer or issuance, whichever is earlier; and the corporation does not offer in
2755 writing, within thirty days after the date on which the corporation received the written
2756 rejection, to purchase the shares from that person for the full amount paid for the
2757 shares, or, having made an offer to purchase the shares for that amount, the
2758 corporation, upon that person's acceptance of the offer, does not purchase the shares
2759 in accordance with division (I)(3) of this section.

2760 (2) A close corporation agreement does not become invalid and the person
2761 to whom the shares are transferred or issued is not entitled to any payment from the
2762 corporation pursuant to division (I)(3) of this section if both of the following apply:

2763 (a) Shares of the corporation are transferred or issued to a person who
2764 takes delivery of the certificate for the shares other than by gift, bequest, or
2765 inheritance and without knowledge or notice of the close corporation agreement;

2766 (b) That person does either of the following:

2767 (i) Fails to deliver a written rejection of the close corporation agreement
2768 to the corporation within ninety days after the date on which that person first received
2769 notice of the existence of the close corporation agreement or within three years of the
2770 date of transfer or issuance, whichever is earlier;

2771 (ii) Fails, within thirty days after the date on which that person receives a
2772 written offer by the corporation to purchase the shares from that person for the full
2773 amount paid for the shares, to accept the offer.

2774 (3) If shares of a corporation are transferred or issued to a person who
2775 takes delivery of the certificate for the shares other than by gift, bequest, or
2776 inheritance and without knowledge or notice of the close corporation agreement and
2777 that person accepts an offer by the corporation to purchase the shares, the corporation
2778 shall pay to that person the full amount paid for the shares within seven days after that
2779 person delivers to the corporation the certificate for the shares and proof of payment
2780 of the amount paid for the shares. If the amount paid for the shares included property
2781 other than cash, the corporation, at its option, may return the property to that person
2782 or may pay to that person cash in an amount equal to the fair market value of the
2783 property on the date of transfer or issuance of the shares, as determined in good faith
2784 by the corporation. A shareholder who transfers shares to a person who takes delivery
2785 of the certificate for the shares other than by gift, bequest, or inheritance and without

2786 knowledge or notice of the close corporation agreement is liable to the corporation,
2787 upon the corporation's written demand made upon the shareholder within ninety days
2788 after the date on which the corporation made payment for the shares, for the full
2789 amount that the corporation paid for the shares. Upon receiving payment in that
2790 amount from the shareholder, the corporation shall transfer the shares to the
2791 shareholder.

2792 (4) In the event of the invalidity of a close corporation agreement and
2793 unless otherwise provided in the close corporation agreement, any provision
2794 contained in the close corporation agreement that would not be invalid under any
2795 other section of this chapter or under other applicable law remains valid and binding
2796 on the parties to the close corporation agreement.

2797 Any officer of the corporation who learns of the occurrence of any event
2798 causing the invalidity of the close corporation agreement shall immediately give
2799 written notice of the invalidity to all of the shareholders.

2800 If a close corporation agreement set forth in the articles of the corporation is
2801 terminated or becomes invalid, the officers of the corporation shall promptly sign and
2802 file the certificate of amendment prescribed by section 1701.73 of the Revised Code,
2803 setting forth the reason for the termination or invalidity and deleting the close
2804 corporation agreement from the articles. If the officers fail to execute and file the
2805 certificate within thirty days after the occurrence of the event giving rise to the
2806 termination or invalidity, the certificate may be signed and filed by any shareholder
2807 and shall set forth a statement that the person signing the certificate is a shareholder
2808 and is filing the certificate because of the failure of the officers to do so.

2809 (J) A close corporation agreement, in the sound discretion of a court
2810 exercising its equity powers, is enforceable by injunction, specific performance, or
2811 other relief that the court may determine to be fair and appropriate.

2812 (K) This section shall not be construed as prohibiting any other lawful
2813 agreement among two or more shareholders.

2814 (L) No corporation with respect to which a close corporation agreement is
2815 in effect, shall issue shares in uncertificated form, and any provision of the articles or
2816 regulations or any resolution of the directors of such a corporation, providing for the
2817 issuance of shares in uncertificated form, shall be ineffective during any period in

2818 which a close corporation agreement is in effect. The adoption of a close corporation
2819 agreement shall act as a transfer instruction to the corporation to replace
2820 uncertificated securities with appropriate certificated securities.

2821 (M) If the annual meeting of the shareholders is dispensed with in
2822 accordance with a provision in the close corporation agreement authorized by
2823 division (C)(12) of this section, the annual financial statements and any written
2824 statements or reports required by section 1701.38 of the Revised Code shall be
2825 delivered to each shareholder on or before the last date upon which the annual
2826 meeting otherwise could have been held.

2827 (N) The amendments to this section that are effective April 4, 1985, are
2828 remedial in nature and apply to all close corporation agreements created on or after
2829 November 17, 1981. The amendments to this section that are effective December 31,
2830 1993, are remedial in nature and, except as those amendments otherwise provide,
2831 apply to all close corporation agreements created on or after November 17, 1981.

2832 **Sec. 1701.94.** (A) Every corporation that fails to:

- 2833 (1) Keep the books of account, minutes of proceedings, or records of
2834 shareholders as required by section 1701.37 of the Revised Code;
- 2835 (2) Comply with division (C) of section 1701.11 of the Revised Code with
2836 respect to mailing a copy of an amendment to, or copy of new, regulations;
- 2837 (3) Perform the obligation imposed on it by division (C) of section
2838 1701.25 of the Revised Code;
- 2839 (4) Send to any shareholder making written request therefor, within the
2840 period provided for in division (C) of section 1701.38 of the Revised Code, a copy of
2841 ~~the~~any financial statement, written statement, or report, as applicable, referred to in
2842 that section;
- 2843 (5) Lay before the shareholders or make available in the manner provided
2844 for in division (D) of section 1701.38 of the Revised Code at a proper meeting of
2845 shareholders, upon request of any shareholder at such meeting, such financial
2846 statement, written statement, or report, as applicable;
- 2847 (6) Produce at a meeting of shareholders, upon request of any shareholder
2848 at such meeting, the list or lists of shareholders required by section 1701.37 of the
2849 Revised Code; shall be subject to a forfeiture of one hundred dollars and in cases

2850 under paragraphs (1), (2), (3), and (4) to a further forfeiture of ten dollars for every
2851 day that such failure continues, beginning, in cases under paragraphs (1) or (2), with
2852 the fifth day after written request by a shareholder that the corporation comply with
2853 said respective paragraphs, and in cases under paragraphs (3) and (4) beginning with
2854 the day following the day on which the corporation becomes delinquent in complying
2855 with said paragraph, which amount shall be paid to every shareholder making such
2856 request. The right of a shareholder to enforce any such forfeiture is in addition to all
2857 other remedies.

2858 (B) If any officer charged with one of the duties specified in division (A) of
2859 this section fails to perform such duty after written request by any shareholder, the
2860 officer shall be subject to a forfeiture of one hundred dollars, and to the further
2861 forfeiture of ten dollars for every day that such default continues, beginning in cases
2862 under paragraphs (1), (2), (3), and (4) of division (A) on the same respective days as
2863 are provided for in division (A), which amount shall be paid to each shareholder
2864 making such request. The right of each shareholder to enforce any such forfeiture is
2865 in addition to all other remedies.

2866 (C) The court in which an action is brought to enforce any forfeiture under
2867 this section may reduce, remit, or suspend such forfeiture on such terms as it deems
2868 reasonable when it appears that the failure was excusable or that the imposition of the
2869 full forfeiture would be unreasonable or unjust.

2870 Sec. 1701.96. (A) A benefit corporation owes no duty to a person who is a
2871 beneficiary of a beneficial purpose of the benefit corporation based solely on the
2872 status of that person as a beneficiary. (See Committee Comment #2)²

2873 (B) A benefit corporation is not liable in damages for any failure to seek,
2874 achieve, or comply with any beneficial purpose of the benefit corporation set forth in
2875 the articles of the corporation. A benefit corporation may be subject only to equitable
2876 remedies, including injunction and specific performance, for failing to seek, achieve,
2877 or comply with a beneficial purpose.

2878 (C) An action for equitable relief for failing to seek, achieve or comply
2879 with a beneficial purpose set forth in the articles of a benefit corporation may be
2880 brought only by the benefit corporation or in a derivative action on behalf of the
2881 benefit corporation by any of the following:

2882 (1) A director of the corporation;
2883 (2) Persons who, in the aggregate, hold twenty-five per cent of all shares
2884 outstanding and entitled to vote at a meeting of the shareholders, unless the articles,
2885 the regulations adopted by the shareholders, or the regulations adopted by the
2886 directors pursuant to division (A)(1) of section 1701.10 of the Revised Code prescribe
2887 a smaller proportion;
2888 (3) If the benefit corporation has issued and has outstanding shares listed
2889 on a national securities exchange or regularly quoted in an over-the-counter market
2890 by one or more members of a national or affiliated securities association, persons
2891 who, in the aggregate, hold shares of at least two million dollars in market value;
2892 (4) Any other person that the articles or regulations authorize to bring such an
2893 action.
2894 (D) The provisions of divisions (B) and (C) of this section do not alter the
2895 obligation of a benefit corporation to comply with all laws otherwise applicable to a
2896 domestic corporation or contracts by which the benefit corporation is bound, and
2897 divisions (B) and (C) of this section shall not limit or restrict the imposition of any
2898 remedy available under such otherwise applicable laws or contracts.
2899

¹ Committee Comment #1

Committee Comment (2015)

The following amendments to Chapter 1701 allow a for-profit corporation to become a “benefit corporation” by including in its articles of incorporation, among the other purposes for which the corporation is formed, one or more social and/or environmental “beneficial purposes.” The amendments also provide that a corporation whose shareholders elect to include one or more beneficial purposes in its articles of incorporation shall not be liable for damages (which term is intended to cover any and all claims for monetary relief, regardless of the legal or equitable claim asserted) based on the failure of the corporation to seek, achieve or comply with any beneficial purpose and also specifically provide that neither the corporation nor its directors shall owe duties to the beneficiaries of any beneficial purpose.

Benefit corporation legislation has been adopted in a majority of U.S. states. The Ohio benefit corporation legislation is intended to be flexible and adaptable to any size of corporation, form of business model or type of socially and/or environmentally beneficial purpose.

² Committee Comment #2

1701.96

Committee Comment (2015)

Division (A) does not extend standing to a person based on his, her or its status as a beneficiary of a benefit corporation's beneficial purpose(s). Division (C) outlines the categories of persons that can bring a derivative suit based on a concern about whether a benefit corporation is failing to seek, achieve or comply with its beneficial purpose(s). Division (B) addresses the type of remedies available for these types of concerns. Concerns of this type are not appropriately remedied by monetary damages to claimants, but rather by equitable requirements to seek or comply with beneficial purpose(s) in the benefit corporation's articles of incorporation. The prohibition against liability in damages is intended to cover any and all claims for monetary relief, regardless of the legal or equitable claim asserted. Division (D) confirms that a benefit corporation remains subject to all the other requirements and limitations imposed by Ohio law or other applicable law on for-profit corporations, and the limitations in Divisions (B) and (C) do not extend to those other requirements and limitations imposed by Ohio law or other applicable law. A corporation does not obtain extra legal protections by including a beneficial purpose in its articles of incorporation, but neither does it subject itself to extra liabilities (beyond those expressly provided in Section 1701.96) for doing so.

2900 **REPORT OF THE TAXATION LAW COMMITTEE**

2901

2902 *To the Council of Delegates:*

2903

2904 The Taxation Law Committee respectfully requests your favorable consideration of a
2905 legislative proposal for the purpose of amending *Ohio Revised Code* (R.C.) Section 5747.24
2906 to clarify that, when an individual satisfies the requirements of the irrebuttable presumption
2907 of domicile for Ohio personal income tax purposes, the presumption applies independently of
2908 the individual’s domicile under common law. This proposal would be a clarification of
2909 existing law, and would have the effect of reversing the decision of the Supreme Court of
2910 Ohio in *Cunningham v. Testa*, Slip Opinion No. 2015-Ohio-2744 (Ohio, 2015).

2911

2912 Respectfully submitted,

2913

2914 Kelvin M. Lawrence, Columbus

2915

2916 Chair of the Taxation Law Committee

2917

2918 **Summary and Rationale for Proposal.**

2919

2920 Ohio imposes individual income tax on all individuals who are residents of Ohio and
2921 on all individuals who are nonresidents of Ohio and who have income from sources within
2922 the state. Ohio residents are eligible for a credit for taxes paid to other jurisdictions, while
2923 nonresidents may receive a credit for all income that is sourced to a state other than Ohio.
2924 Generally speaking, nonresident taxpayers are eligible for a credit against tax for non-
2925 business income that is sourced to their state of domicile; this income typically includes,
2926 among other things: interest, dividends, capital gains, and many forms of retirement income.

2927

2928 For income tax purposes, an individual is a resident of Ohio if the individual is
2929 domiciled in the state, subject to the presumption of domicile in R.C. 5747.24(B)(1). In
2930 general terms, one’s common law domicile is the place that one considers home; the place to
2931 which one returns when one is absent. While domicile is a question of one’s intention, it must
2932 be demonstrated by manifestations of that intention. This creates the potential for great
2933 confusion because taxing authorities can easily challenge the sufficiency of those
2934 manifestations. The presumption in R.C. 5747.24(B) was enacted in 1993 in response to
2935 audits by the Ohio Department of Taxation, which often called into question every aspect of
2936 an individual’s personal life: the locations of homes, cars, doctors, lawyers, accountants,
2937 family heirlooms, pets, as well as relationships with children and grandchildren and the
2938 charities to which one contributed. Because these audits were viewed as aggressive, and the
2939 audit techniques perceived as so invasive, the General Assembly sought to create a
2940 mechanism by which taxpayers who had changed domicile but who retained contacts with
2941 Ohio could have a “bright line” by which they could live their lives with the peace of mind
2942 that, if the requirements were satisfied, they would not be surprised by an unexpected tax bill
2943 based on a good faith disagreement over whether their common law domicile had, in fact,
2944 changed.

2945

2946 R.C. 5747.24 provides that, for purposes of the Ohio personal income tax and school

2946 district income tax, if an individual has fewer than 213 contact periods with Ohio, maintains
2947 a place of abode outside Ohio for the entire tax year, and timely files a statement with the
2948 Tax Commissioner containing certain information, then the individual is irrebuttably
2949 presumed to be not domiciled in Ohio for the tax year, provided the affidavit does not contain
2950 a false statement. If an individual fails to satisfy the requirements in R.C. 5747.24(B)(1), then
2951 the taxpayer is rebuttably presumed to be domiciled in Ohio, and must prove the contrary by
2952 a preponderance of the evidence. The Supreme Court of Ohio recently addressed this
2953 presumption in *Cunningham v. Testa*, Slip Opinion No. 2015-Ohio-2744 (Ohio, 2015), and
2954 reversed the Ohio Board of Tax Appeals, concluding that “[a]lthough the bright-line statute
2955 creates an irrebuttable presumption, it does not affect the substantive law of domicile.”
2956 *Cunningham*, Slip Opinion No. 2015-Ohio-2744 at ¶18 (citations omitted). The Court also
2957 opined: “A statement verifying non-Ohio domicile can be false if it is not supported by the
2958 common law of domicile.” *Cunningham*, Slip Opinion No. 2015-Ohio-2744 at ¶22 (citations
2959 omitted). In this respect, the Court’s interpretation of the presumption is contrary to the
2960 understanding of this presumption that was held by many, if not most, members of the
2961 Taxation Law Committee who regularly practice before the Ohio Department of Taxation
2962 and the Board of Tax Appeals. Prior to the decision in *Cunningham*, it was widely believed
2963 that the presumption in R.C. 5747.24 applied independently of common law domicile, such
2964 that the statement filed with the Tax Commissioner merely required attesting to the two facts
2965 explicitly required by the statute: having fewer than the requisite number of contact periods,
2966 and having a place of abode for the entire taxable year.

2967

2968 In *Cunningham*, the Court was not clear about how “substantial” the information the
2969 Tax Commissioner possesses must be in order to find a taxpayer’s statement of non-Ohio
2970 domicile is false, and to shift the burden of proving non-Ohio domicile to the taxpayer. The
2971 result of the *Cunningham* decision has been to create significant confusion in the legal
2972 community about the utility of R.C. 5747.24 in providing a “bright line” for Ohio
2973 nonresident taxpayers. This confusion is compounded by the Ohio Department of Taxation’s
2974 recent reminder that it will not consider the specific factors identified in Ohio Administrative
2975 Code Section 5703-7-16, when offered to substantiate a domicile outside Ohio. *See* Ohio
2976 Department of Taxation, Information Release IT-2015-02 Personal Income Tax: Residency
2977 Guidelines – Tax Imposed on Resident and Nonresident Individuals for Post-2014 Taxable
2978 Years – Issued September 2015. Presumably, however, the Department of Taxation may
2979 consider these factors in determining the accuracy of the statement. This only further
2980 confuses when and how the common law standards, if they are to apply, will be applied. In
2981 order to clarify the intention of the General Assembly in its original enactment of R.C.
2982 5747.24, to clarify that prior attestations of non-Ohio domicile were not improvidently made,
2983 and to provide guidance on how R.C. 5747.24 should be administered going forward, the
2984 Taxation Law Committee proposes, and the Estate Planning, Trust and Probate Law Section
2985 Council supports, the legislation substantially in the form attached hereto and incorporated
2986 herein by reference, and recommends that the Council of Delegates offer its endorsement to
2987 such legislation.

2988

2989 **Text of the Proposal**

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2991

A BILL

2992

To amend section 5747.24 of the Revised Code to

2993

clarify the law that establishes a bright-

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line presumption of domicile for purposes of

2995

the income tax.

2996

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

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2999

Section 1. That section 5747.24 of the Revised Code be amended

3000

to read as follows:

3001

Sec. 5747.24. This section is to be applied solely for the

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purposes of Chapters 5747. and 5748. of the Revised Code.

3003

(A) As used in this section:

3004

(1) An individual "has one contact period in this state" if the

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individual is away overnight from the individual's abode located

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outside this state and while away overnight from that abode spends

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at least some portion, however minimal, of each of two consecutive

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days in this state.

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(2) An individual is considered to be "away overnight from the

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individual's abode located outside this state" if the individual is

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away from the individual's abode located outside this state for a

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continuous period of time, however minimal, beginning at any time on

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one day and ending at any time on the next day.

3014

(B)

3015

(1) Except as provided in division (B)(2) of this section, an

3016

individual who during a taxable year has no more than two hundred

3017 twelve contact periods in this state, which need not be consecutive,
3018 and who during the entire taxable year has at least one abode
3019 outside this state, is presumed to be not domiciled in this state
3020 during the taxable year if, on or before the fifteenth day of the
3021 fourth month following the close of the taxable year, the individual
3022 files with the tax commissioner, on the form prescribed by the
3023 commissioner, a statement from the individual verifying that the
3024 individual was not domiciled in this state under this division

3025 (B) (1) during the taxable year. In the statement, the individual
3026 shall verify ~~both~~ all of the following:

3027 (a) ~~During the entire taxable year, t~~The individual desires to
3028 be treated as a person who was not domiciled in this state during
3029 the entire taxable year for purposes of Chapters 5747. and 5748. of
3030 the Revised Code, without regard to, or consideration of, where the
3031 individual was domiciled under common law;

3032 (b) During the entire taxable year, the individual had at
3033 least one abode outside this state. The individual shall specify in
3034 the statement the location of each such abode outside this state
3035 that is the basis for the individual's claim of having at least one
3036 abode outside this state during the entire taxable year;

3037 (c) The individual can support, under division (E) of this
3038 section, that the individual had fewer than two hundred thirteen
3039 contact periods in this state during the taxable year; and

3040 (d) The individual is not a part-year resident.

3041 The presumption that the individual was not domiciled in this
3042 state is irrebuttable unless the individual fails to timely file the

3043 | statement as required or makes a false statement with regard to
3044 | having at least one abode outside this state for the entire taxable
3045 | year or having fewer than two hundred thirteen contact periods in
3046 | this state during the taxable year as determined under division (E).
3047 | If the individual fails to file the statement as required or makes
3048 | such a false statement, and is not a part-year resident under
3049 | division (B)(2) of this section, the individual is presumed under
3050 | division (C) of this section to have been domiciled in this state
3051 | the entire taxable year. __

3052 | In the case of an individual who dies before the statement
3053 | would otherwise be due, the personal representative of the estate of
3054 | the deceased individual may comply with this division by making to
3055 | the best of the representative's knowledge and belief the statement
3056 | under division (B)(1) of this section with respect to the deceased
3057 | individual, and filing the statement with the commissioner within
3058 | the later of the date the statement would otherwise be due or sixty
3059 | days after the date of the individual's death.

3060 | The provisions of this division (B)(1) for determining
3061 | domicile for purposes of Chapters 5747. and 5748. of the Revised
3062 | Code shall be in lieu of a determination of domicile under common
3063 | law or any other manner.

3064 | An individual or personal representative of an estate who
3065 | knowingly makes a false statement under division (B)(1) of this
3066 | section is guilty of perjury under section 2921.11 of the Revised
3067 | Code.

3068 | (2) Division (B) of this section does not apply to an

3069 individual changing domicile from or to this state during the
3070 taxable year. Such an individual is a part-year resident, who is
3071 domiciled in this state for that portion of the taxable year before
3072 or after the change, as applicable.

3073 (C) An individual who during a taxable year has fewer than two
3074 hundred thirteen contact periods in this state, which need not be
3075 consecutive, and who is not irrebuttably presumed under division (B)
3076 of this section to be not domiciled in this state with respect to
3077 that taxable year, is presumed to be domiciled in this state for the
3078 entire taxable year, except as provided in division (B)(2) of this
3079 section. An individual can rebut this presumption for any portion of
3080 the taxable year only with a preponderance of the evidence to the
3081 contrary. An individual who rebuts the presumption under this
3082 division for any portion of the taxable year is presumed to be
3083 domiciled in this state for the remainder of the taxable year for
3084 which the individual does not provide a preponderance of the
3085 evidence to the contrary.

3086 (D) An individual who during a taxable year has at least two
3087 hundred thirteen contact periods in this state, which need not be
3088 consecutive, is presumed to be domiciled in this state for the
3089 entire taxable year, except as provided in division (B)(2) of this
3090 section. An individual can rebut this presumption for any portion of
3091 the taxable year only with clear and convincing evidence to the
3092 contrary. An individual who rebuts the presumption under this
3093 division for any portion of the taxable year is presumed to be
3094 domiciled in this state for the remainder of the taxable year for

3095 which the individual does not provide clear and convincing evidence
3096 to the contrary.

3097 (E) If the tax commissioner challenges the number of contact
3098 periods an individual claims to have in this state during a taxable
3099 year, the individual bears the burden of proof to verify such
3100 number, by a preponderance of the evidence. An individual challenged
3101 by the commissioner is presumed to have a contact period in this
3102 state for any period for which the individual does not prove by a
3103 preponderance of the evidence that the individual had no such
3104 contact period.

3105 **Section 2.** That existing section 5747.24 of the Revised
3106 Code is hereby repealed.

3107 **Section 3.** The amendment by this act of section 5747.24 of
3108 the Revised Code is intended to reflect the General Assembly's
3109 understanding of, and intent with regards to, that section prior
3110 to the ruling of the Ohio Supreme Court in *Cunningham v. Testa*,
3111 Slip Opinion No. 2015-Ohio-2744 (2015).

3112 **Section 4.** The amendment by this act of section 5747.24 of
3113 the Revised Code applies to taxable years beginning in or after
3114 the year in which this act takes effect and to any prior taxable
3115 year for which a refund application is pending or may be filed
3116 or for which an assessment is pending or may be issued or for which an
3117 assessment is under appeal or may be appealed. A taxpayer who timely
3118 filed the form required by the tax commissioner pursuant to an earlier
3119 version of section 5747.24 is deemed to have filed the form to be
3120 prescribed by the tax commissioner that conforms to the amendment to

3121 | section 5724.24 by this act.

3122

COMMITTEE CONTACTS AND PRESENTERS

Corporation Law Committee

Jeffrey R. Wahl, Esq.
Squire Patton Boggs (US) LLP
41 S. High Street, Ste. 2000
Columbus, OH 43215-6106
(614) 365-2700
jeff.wahl@squirepb.com

Estate Planning, Trust and Probate Law Section

Roy A. Krall, Esq.
Cavitch Familo & Durkin Co., LPA
1300 East Ninth Street, 20th Floor
Cleveland, OH 44114
(216) 472-4629
rkrall@cavitch.com

Robert Brucken, Esq.
Retired Partner
Baker Hostetler
1900 East 9th Street, Suite 3200
Cleveland, OH 44114-3485
rbrucken@bakerlaw.com

John F. Furniss III
Bricker & Eckler LLP
100 South 3rd Street
Columbus, OH 43215-4291
(614) 227-8919
jfurniss@bricker.com

Family Law Committee

Susan S. Donofrio, Esq.
The Legal Aid Society of Columbus
1108 City Park Avenue
Columbus, OH 43206-3583
(614) 737-0154
sdonofrio@columbuslegalaid.org

Eric W. Johnson, Esq.
Eric Johnson
Sowald Sowald Anderson Hawley & Johnson
400 S. 5th Street, Suite 101
Columbus, OH 43215-5430
(614) 464-1877
ejohnson@sowaldlaw.com

Real Property Section

John I. Cadwallader, Esq.
Frost Brown Todd LLC
10 W. Broad St., Suite 2300
Columbus, OH 43215-3467
(614) 559-7212
jcadwallader@fbtlaw.com

Stephen R. Buchenroth, Esq. - Presenter
Vorys Sater Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215-3161
(614) 464-6366
srbuchenroth@vorys.com

Taxation Law

Kelvin M. Lawrence, Esq.
Baker & Hostetler LLP
Capitol Square, Suite 2100
65 East State Street
Columbus, Ohio 43215-4260
(614) 462-2664
klawrence@bakerlaw.com