

As Reported by the Senate Judiciary--Civil Justice Committee

124th General Assembly

Regular Session

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Sub. H. B. No. 345

**REPRESENTATIVES Womer Benjamin, Manning, Willamowski, Sulzer, Seitz,
Jones, Rhine, Schmidt, Roman, Salerno, Carano, Wilson, Calvert, Barrett,
Krupinski, Hollister, Latta, Coates**

A B I L L

To amend sections 1339.66, 1339.68, 1340.22, 1547.54, 1548.07, 1548.071, 1548.08, 1548.11, 2106.18, 2107.27, 2107.28, 2109.62, 2113.30, 2113.61, 2117.25, 4503.12, 4505.06, 4505.10, 4549.08, and 4549.41; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2106.17 (2131.12); and to enact sections 1548.072, 2107.06, 2131.13, 2305.121, and 3923.061 of the Revised Code relative to the valuation limit for termination of small trusts; transfer on death of a motor vehicle, watercraft, or outboard motor; reimbursement for payment of a decedent's debt; issuance of a certificate of transfer of real property; continuing a decedent's business after death; establishing an age requirement to witness a will; discretionary distributions by a fiduciary; lost, spoliated, or destroyed wills; statute of limitations for certain revocable trusts; and interest on proceeds of sickness and accident insurance policies due to death.

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

Section 1. That sections 1339.66, 1339.68, 1340.22, 1547.54, 21
1548.07, 1548.071, 1548.08, 1548.11, 2106.18, 2107.27, 2107.28, 22
2109.62, 2113.30, 2113.61, 2117.25, 4503.12, 4505.06, 4505.10, 23
4549.08, and 4549.41 be amended; section 2106.17 (2131.12) be 24
amended, for the purpose of adopting a new section number as 25
indicated in parentheses; and sections 1548.072, 2107.06, 2131.13, 26
2305.121, and 3923.061 of the Revised Code be enacted to read as 27
follows: 28

Sec. 1339.66. (A)(1) Upon the filing of a motion by a trustee 29
with the court that has jurisdiction over the trust, upon the 30
provision of reasonable notice to all beneficiaries who are known 31
and in being and who have vested or contingent interests in the 32
trust, and after holding a hearing, the court may terminate the 33
trust, in whole or in part, if it determines that all of the 34
following apply: 35

(a) It is no longer economically feasible to continue the 36
trust. 37

(b) The termination of the trust is for the benefit of the 38
beneficiaries. 39

(c) The termination of the trust is equitable and practical. 40
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(d) The current value of the trust is less than fifty one 42
hundred thousand dollars. 43

(2) The existence of a spendthrift or similar provision in a 44
trust instrument or will does not preclude the termination of a 45
trust pursuant to this section. 46

(B) If property is to be distributed from an estate being 47
probated to a trust and the termination of the trust pursuant to 48
this section does not clearly defeat the intent of the testator, 49

the probate court has jurisdiction to order the outright
distribution of the property or to make the property custodial
property under sections 1339.31 to 1339.39 of the Revised Code. A
probate court may so order whether the application for the order
is made by an inter vivos trustee named in the will of the
decedent or by a testamentary trustee.

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Sec. 1339.68. (A) As used in this section:

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(1) "Disclaimant" means any person, any guardian or personal
representative of a person or estate of a person, or any
attorney-in-fact or agent of a person having a general or specific
authority to act granted in a written instrument, who is any of
the following:

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(a) With respect to testamentary instruments and intestate
succession, an heir, next of kin, devisee, legatee, donee, person
succeeding to a disclaimed interest, surviving joint tenant,
surviving tenant by the entirety, surviving tenant of a tenancy
with a right of survivorship, beneficiary under a testamentary
instrument, or person designated to take pursuant to a power of
appointment exercised by a testamentary instrument;

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(b) With respect to nontestamentary instruments, a grantee,
donee, person succeeding to a disclaimed interest, surviving joint
tenant, surviving tenant by the entirety, surviving tenant of a
tenancy with a right of survivorship, beneficiary under a
nontestamentary instrument, or person designated to take pursuant
to a power of appointment exercised by a nontestamentary
instrument;

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(c) With respect to fiduciary rights, privileges, powers, and
immunities, a fiduciary under a testamentary or nontestamentary
instrument. This section does not authorize a fiduciary to
disclaim the rights of beneficiaries unless the instrument
creating the fiduciary relationship authorizes such a disclaimer.

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(d) Any person entitled to take an interest in property upon the death of a person or upon the occurrence of any other event.	82 83
(2) "Property" means all forms of property, real and personal, tangible and intangible.	84 85
(B)(1) A disclaimant, other than a fiduciary under an instrument who is not authorized by the instrument to disclaim the interest of a beneficiary, may disclaim, in whole or in part, the succession to any property by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.	86 87 88 89 90 91
(2) A disclaimant who is a fiduciary under an instrument may disclaim, in whole or in part, any right, power, privilege, or immunity, by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.	92 93 94 95 96
(3) The written instrument of disclaimer shall be signed and acknowledged by the disclaimant and shall contain all of the following:	97 98 99
(a) A reference to the donative instrument;	100
(b) A description of the property, part of property, or interest disclaimed, and of any fiduciary right, power, privilege, or immunity disclaimed;	101 102 103
(c) A declaration of the disclaimer and its extent.	104
(4) The guardian of the estate of a minor or an incompetent, or the personal representative of a deceased person, with the consent of the probate division of the court of common pleas, may disclaim, in whole or in part, the succession to any property, or interest in property, that the ward, if an adult and competent, or the deceased, if living, might have disclaimed. The guardian or	105 106 107 108 109 110

personal representative, or any interested person may file an 111
application with the probate division of the court of common pleas 112
that has jurisdiction of the estate, asking that the court order 113
the guardian or personal representative to execute and deliver, 114
file, or record the disclaimer on behalf of the ward or estate. 115
The court shall order the guardian or personal representative to 116
execute and deliver, file, or record the disclaimer if the court 117
finds, upon hearing after notice to interested parties and such 118
other persons as the court shall direct, that: 119

(a) It is in the best interests of those interested in the 120
estate of the person and of those who will take the disclaimed 121
interest; 122

(b) It would not materially, adversely affect the minor or 123
incompetent, or the beneficiaries of the estate of the decedent, 124
taking into consideration other available resources and the age, 125
probable life expectancy, physical and mental condition, and 126
present and reasonably anticipated future needs of the minor or 127
incompetent or the beneficiaries of the estate of the decedent. 128

A written instrument of disclaimer ordered by the court under 129
this division shall be executed and be delivered, filed, or 130
recorded within the time and in the manner in which the person 131
could have disclaimed if the person were living, an adult, and 132
competent. 133

(C) A partial disclaimer of property that is subject to a 134
burdensome interest created by the donative instrument is not 135
effective unless the disclaimed property constitutes a gift that 136
is separate and distinct from undisclaimed gifts. 137

(D) The disclaimant shall deliver, file, or record the 138
disclaimer, or cause the same to be done, not later than nine 139
months after the latest of the following dates: 140

(1) The effective date of the donative instrument if both the 141

taker and the taker's interest in the property are finally 142
ascertained on that date; 143

(2) The date of the occurrence of the event upon which both 144
the taker and the taker's interest in the property become finally 145
ascertainable; 146

(3) The date on which the disclaimant attains twenty-one 147
years of age or is no longer an incompetent, without tendering or 148
repaying any benefit received while the disclaimant was under 149
twenty-one years of age or an incompetent, and even if a guardian 150
of a minor or incompetent had filed an application pursuant to 151
division (B)(4) of this section and the probate division of the 152
court of common pleas involved did not consent to the guardian 153
executing a disclaimer. 154

(E) No disclaimer instrument is effective under this section 155
if either of the following applies under the terms of the 156
disclaimer instrument: 157

(1) The disclaimant has power to revoke the disclaimer. 158

(2) The disclaimant may transfer, or direct to be 159
transferred, to self the entire legal and equitable ownership of 160
the property subject to the disclaimer instrument. 161

(F)(1) Subject to division (F)(2) of this section, if the 162
interest disclaimed is created by a nontestamentary instrument, 163
the disclaimer instrument shall be delivered personally or by 164
certified mail to the trustee or other person who has legal title 165
to, or possession of, the property disclaimed. 166

(2) If the interest disclaimed is created by a testamentary 167
instrument, by intestate succession, ~~or~~ by a transfer on death 168
deed pursuant to section 5302.22 of the Revised Code, or by a 169
certificate of title to a motor vehicle, watercraft, or outboard 170
motor that evidences ownership of the motor vehicle, watercraft, 171
or outboard motor that is transferable on death pursuant to 172

section 2131.13 of the Revised Code, the disclaimer instrument 173
shall be filed in the probate division of the court of common 174
pleas in the county in which proceedings for the administration of 175
the decedent's estate have been commenced, and an executed copy of 176
the disclaimer instrument shall be delivered personally or by 177
certified mail to the personal representative of the decedent's 178
estate. 179

(3) If no proceedings for the administration of the 180
decedent's estate have been commenced, the disclaimer instrument 181
shall be filed in the probate division of the court of common 182
pleas in the county in which proceedings for the administration of 183
the decedent's estate might be commenced according to law. The 184
disclaimer instrument shall be filed and indexed, and fees 185
charged, in the same manner as provided by law for an application 186
to be appointed as personal representative to administer the 187
decedent's estate. The disclaimer is effective whether or not 188
proceedings thereafter are commenced to administer the decedent's 189
estate. If proceedings thereafter are commenced for the 190
administration of the decedent's estate, they shall be filed 191
under, or consolidated with, the case number assigned to the 192
disclaimer instrument. 193

(4) If an interest in real estate is disclaimed, an executed 194
copy of the disclaimer instrument also shall be recorded in the 195
office of the recorder of the county in which the real estate is 196
located. The disclaimer instrument shall include a description of 197
the real estate with sufficient certainty to identify it, and 198
shall contain a reference to the record of the instrument that 199
created the interest disclaimed. If title to the real estate is 200
registered under Chapters 5309. and 5310. of the Revised Code, the 201
disclaimer interest shall be entered as a memorial on the last 202
certificate of title. A spouse of a disclaimant has no dower or 203
other interest in the real estate disclaimed. 204

(G) Unless the donative instrument expressly provides that, 205
if there is a disclaimer, there shall not be any acceleration of 206
remainders or other interests, the property, part of property, or 207
interest in property disclaimed, and any future interest that is 208
to take effect in possession or enjoyment at or after the 209
termination of the interest disclaimed, shall descend, be 210
distributed, or otherwise be disposed of, and shall be 211
accelerated, in the following manner: 212

(1) If intestate or testate succession is disclaimed, as if 213
the disclaimant had predeceased the decedent; 214

(2) If the disclaimant is one designated to take pursuant to 215
a power of appointment exercised by a testamentary instrument, as 216
if the disclaimant had predeceased the donee of the power; 217

(3) If the donative instrument is a nontestamentary 218
instrument, as if the disclaimant had died before the effective 219
date of the nontestamentary instrument; 220

(4) If the disclaimer is of a fiduciary right, power, 221
privilege, or immunity, as if the right, power, privilege, or 222
immunity was never in the donative instrument. 223

(H) A disclaimer pursuant to this section is effective as of, 224
and relates back for all purposes to, the date upon which the 225
taker and the taker's interest have been finally ascertained. 226

(I) A disclaimant who has a present and future interest in 227
property, and disclaims the disclaimant's present interest in 228
whole or in part, is considered to have disclaimed the 229
disclaimant's future interest to the same extent, unless a 230
contrary intention appears in the disclaimer instrument or the 231
donative instrument. A disclaimant is not precluded from 232
receiving, as an alternative taker, a beneficial interest in the 233
property disclaimed, unless a contrary intention appears in the 234
disclaimer instrument or in the donative instrument. 235

(J) The disclaimant's right to disclaim under this section is	236
barred if, before the expiration of the period within which the	237
disclaimant may disclaim the interest, the disclaimant does any of	238
the following:	239
(1) Assigns, conveys, encumbers, pledges, or transfers, or	240
contracts to assign, convey, encumber, pledge, or transfer, the	241
property or any interest in it;	242
(2) Waives in writing the disclaimant's right to disclaim and	243
executes and delivers, files, or records the waiver in the manner	244
provided in this section for a disclaimer instrument;	245
(3) Accepts the property or an interest in it;	246
(4) Permits or suffers a sale or other disposition of the	247
property pursuant to judicial action against the disclaimant.	248
(K) A fiduciary's application for appointment or assumption	249
of duties as a fiduciary does not waive or bar the disclaimant's	250
right to disclaim a right, power, privilege, or immunity.	251
(L) The right to disclaim under this section exists	252
irrespective of any limitation on the interest of the disclaimant	253
in the nature of a spendthrift provision or similar restriction.	254
(M) A disclaimer instrument or written waiver of the right to	255
disclaim that has been executed and delivered, filed, or recorded	256
as required by this section is final and binding upon all persons.	257
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(N) The right to disclaim and the procedures for disclaimer	259
established by this section are in addition to, and do not exclude	260
or abridge, any other rights or procedures existing under any	261
other section of the Revised Code or at common law to assign,	262
convey, release, refuse to accept, renounce, waive, or disclaim	263
property.	264
(O)(1) No person is liable for distributing or disposing of	265

property in a manner inconsistent with the terms of a valid disclaimer if the distribution or disposition is otherwise proper and the person has no actual knowledge of the disclaimer.

(2) No person is liable for distributing or disposing of property in reliance upon the terms of a disclaimer that is invalid because the right of disclaimer has been waived or barred if the distribution or disposition is otherwise proper and the person has no actual knowledge of the facts that constitute a waiver or bar to the right to disclaim.

(P)(1) A disclaimant may disclaim pursuant to this section any interest in property that is in existence on September 27, 1976, if either the interest in the property or the taker of the interest in the property is not finally ascertained on that date.

(2) No disclaimer executed pursuant to this section destroys or diminishes an interest in property that exists on September 27, 1976, in any person other than the disclaimant.

Sec. 1340.22. (A) Unless the governing instrument conferring the powers specifically refers to this section and states that this section does not apply and except as provided in divisions (B), (C), and (D) of this section, any of the following powers conferred upon a fiduciary by the governing instrument cannot be exercised by the fiduciary:

(1) The power to make any discretionary distribution of either principal or income to or for the benefit of the fiduciary in the fiduciary's individual capacity;

(2) The power to make any discretionary distribution of either principal or income to satisfy any of the fiduciary's legal obligations in the fiduciary's individual capacity for support or other purposes;

(3) The power to make any discretionary distribution of

either principal or income to or for the benefit of one or more
beneficiaries to the extent that the fiduciary would or could
receive a similar distribution in the fiduciary's individual
capacity under any governing instrument from the beneficiary or
beneficiaries acting as a fiduciary;

(4) The power to make any discretionary distribution of
either principal or income to or for the benefit of one or more
beneficiaries who possess both the right to remove the fiduciary
and the right to appoint a successor fiduciary that may include
but is not limited to the beneficiary, any of the beneficiaries,
or any related or subordinate person, within the meaning of
section 672(c) of the "Internal Revenue Code of 1986," 100 Stat.
2085, 26 U.S.C. 672(c), with respect to the beneficiary or any of
the beneficiaries, if the successor fiduciary has been appointed
by the exercise of both of those rights by the beneficiary or
beneficiaries.

(B)(1) If division (A)(1), (3), or (4) of this section
prohibits a fiduciary from exercising any power conferred by the
governing instrument, the fiduciary, notwithstanding division
(A)(1), (3), or (4) of this section, may exercise the power to the
extent set forth in the governing instrument, provided that the
exercise of that power, in all events, shall be limited to an
ascertainable standard.

(2) Any power conferred upon a fiduciary that permits the
fiduciary to make discretionary distributions of either principal
or income and that is expressed in terms of a beneficiary's
health, education, support, comfort, care, comfort and support,
support in reasonable comfort, support in accustomed manner of
living, maintenance, maintenance in health and reasonable comfort,
or any combination of those factors, is a power conferred upon the
fiduciary, the exercise of which is reasonably measurable in terms
of, and limited by, an ascertainable standard related to the

health, education, support, and maintenance of the beneficiary. 328

(C) Any fiduciary who is authorized to exercise one or more 329
powers set forth in a governing instrument may exercise any of 330
those powers that the fiduciary is not prohibited from exercising 331
because of the operation of division (A) of this section even 332
though one or more other fiduciaries under the governing 333
instrument is prohibited from exercising the power because of the 334
operation of division (A) of this section. 335

(D) Any power conferred upon a fiduciary that the fiduciary 336
cannot exercise because of the operation of division (A) of this 337
section may be exercised by a special fiduciary appointed by a 338
court of competent jurisdiction. Upon the application of any party 339
in interest, the appropriate probate court or general division of 340
the appropriate court of common pleas may appoint a special 341
fiduciary. Upon the appointment of a special fiduciary under this 342
division, the special fiduciary is qualified to exercise any power 343
set forth in the governing instrument during the period of time 344
that the court designates. 345

(E) This section does not apply to any of the following: 346

(1) Any purely discretionary power to distribute either 347
principal or income to or for the benefit of a beneficiary, other 348
than a beneficiary who is also a fiduciary, that is exercisable in 349
a fiduciary capacity in the sole and absolute discretion of the 350
fiduciary and without any other direction or limitation as to its 351
exercise or use set forth in the governing instrument; 352

(2) Any power of appointment or withdrawal that specifically 353
is granted in the governing instrument to a beneficiary and that 354
is exercisable in an individual capacity but not in a fiduciary 355
capacity; 356

(3) Any trust during the time that the trust is revocable or 357
amendable by its settlor; 358

(4) Any power held by a decedent's or settlor's spouse who is the trustee under a decedent's trust for which a marital deduction for estate tax purposes has been allowed, except a trust or portion of a trust regarding which a special election for qualified terminable interest property has been made as provided in section 2652(a)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 2652(a)(3);

(5)(a) Subject to divisions (E)(5)(b) and (c) of this section, any irrevocable trust created under a governing instrument executed before the expiration of three years after the effective date of this amendment, if all of the parties in interest elect affirmatively not to be subject to the application of this section through a written instrument delivered to the fiduciary.

(b) In the case of a testamentary trust, the election described in division (E)(5)(a) of this section shall be filed with the probate court in which the will was admitted to probate.

(c) All of the parties in interest shall make the election described in division (E)(5)(a) of this section on or before the later of the expiration of three years after the effective date of this amendment or three years after the date on which the trust becomes irrevocable.

(d) As used in division (E)(5) of this section, "party in interest" does not include a contingent remainder beneficiary and means any of the following:

(i) Each fiduciary then serving;

(ii) Each current beneficiary then in existence or, if that beneficiary has not attained the age of majority or otherwise is incapacitated, the beneficiary's legal representative under applicable law or the attorney in fact of the current beneficiary under a durable power of attorney that is sufficient to grant the

authority under division (E)(5) of this section; 390

(iii) Each remainder beneficiary then in existence or, if 391
that remainder beneficiary has not attained the age of majority or 392
otherwise is incapacitated, the remainder beneficiary's legal 393
representative under applicable law or the attorney in fact of the 394
remainder beneficiary under a durable power of attorney that is 395
sufficient to grant the authority under division (E)(5) of this 396
section. 397

Sec. 1547.54. (A)(1) The owner of every watercraft requiring 398
registration under this chapter shall file an application for a 399
triennial registration certificate with the chief of the division 400
of watercraft on forms that shall be provided by the chief or by 401
an electronic means approved by the chief. The application shall 402
be signed by the following: 403

(a) If the watercraft is owned by two persons under joint 404
ownership with right of survivorship established under section 405
~~2106.17~~ 2131.12 of the Revised Code, by both of those persons as 406
owners of the watercraft. The signatures may be done by electronic 407
signature if the owners themselves are renewing the registration 408
and there are no changes in the registration information since the 409
issuance of the immediately preceding registration certificate. In 410
all other instances, the signatures ~~must~~ shall be done manually. 411
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(b) If the watercraft is owned by a minor, by the minor and a 413
parent or legal guardian. The signatures may be done by electronic 414
signature if the parent or legal guardian and the minor themselves 415
are renewing the registration and there are no changes in the 416
registration information since the issuance of the immediately 417
preceding registration certificate. In all other instances, the 418
signatures ~~must~~ shall be done manually. 419

(c) In all other cases, by the owner of the watercraft. The 420

signature may be done by electronic signature if the owner him or
herself is renewing the registration and there are no changes in
the registration information since the issuance of the immediately
preceding registration certificate. In all other instances, the
signatures ~~must~~ shall be done manually.

(2) An application for a triennial registration of a
watercraft filed under division (A)(1) of this section shall be
accompanied by the following fee:

(a) For canoes, kayaks, rowboats, and inflatable watercraft,
twelve dollars;

(b) For class A watercraft, including motorized canoes,
thirty dollars;

(c) For class 1 watercraft, forty-five dollars;

(d) For class 2 watercraft, sixty dollars;

(e) For class 3 watercraft, seventy-five dollars;

(f) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated
by means of power, sail, or any other mechanical or electrical
means of propulsion, except motorized canoes, shall be registered
by length as prescribed in this section.

(4) If an application for registration is filed by two
persons as owners under division (A)(1)(a) of this section, the
person who is listed first on the title shall serve as and perform
the duties of the "owner" and shall be considered the person "in
whose name the watercraft is registered" for purposes of divisions
(B) to (Q) of this section and for purposes of all other sections
in this chapter.

(B) All registration certificates are valid for three years
and are renewable on a triennial basis unless sooner terminated or
discontinued in accordance with this chapter. The renewal date

shall be printed on the registration certificate. A registration
certificate may be renewed by the owner in the manner prescribed
by the chief. All fees shall be charged according to a proration
of the time remaining in the registration cycle to the nearest
year.

(C) In addition to the fees set forth in this section, the
chief, or any authorized agent, shall charge an additional fee of
three dollars for any registration certificate the chief or
authorized agent issues. When the registration certificate is
issued by an authorized agent, the additional fee of three dollars
shall be retained by the issuing agent. When the registration
certificate is issued by the chief, the additional fee of three
dollars shall be deposited to the credit of the waterways safety
fund established in section 1547.75 of the Revised Code.

(D) Upon receipt of the application in approved form, the
chief shall enter the same upon the records of the office of the
division, assign a number to the watercraft if a number is
required under section 1547.53 of the Revised Code, and issue to
the applicant a registration certificate. If a number is assigned
by the chief, it shall be set forth on the certificate. The
registration certificate shall be on the watercraft for which it
is issued and available at all times for inspection whenever the
watercraft is in operation, except that livery operators may
retain the registration certificate at the livery where it shall
remain available for inspection at all times.

(E) No person shall issue or be issued a registration
certificate for a watercraft that is required to be issued a
certificate of title under Chapter 1548. of the Revised Code
except upon presentation of a certificate of title for the
watercraft as provided in that chapter, proof of current
documentation by the United States coast guard, a renewal
registration form provided by the division of watercraft, or a

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certificate of registration issued under this section that has 483
expired if there is no change in the ownership or description of 484
the watercraft. 485

(F) Whenever the ownership of a watercraft changes, a new 486
application form together with the prescribed fee shall be filed 487
with the chief or the chief's agent and a new registration 488
certificate shall be issued. The application shall be signed 489
manually by the person or persons specified in division (A)(1)(a) 490
to (c) of this section and shall be accompanied by a two-dollar 491
transfer fee. Any remaining time on the registration shall be 492
transferred. An authorized agent of the chief shall charge an 493
additional fee of three dollars, which shall be retained by the 494
issuing agent. If the certificate is issued by the chief, an 495
additional fee of three dollars for each certificate issued shall 496
be collected. 497

(G) If an agency of the United States has in force an overall 498
system of identification numbering for watercraft or certain types 499
of watercraft within the United States, the numbering system 500
employed by the division shall be in conformity with that system. 501

(H) The chief may assign any registration certificates to any 503
authorized agent for the assignment ~~thereof~~ of the registration 504
certificates. If a person accepts that authorization, the person 505
may be assigned a block of numbers and certificates ~~therefor~~ that 506
upon assignment, in conformity with this chapter and Chapter 1548. 507
of the Revised Code and with rules of the division, shall be valid 508
as if assigned directly by the division. Any person so designated 509
as an agent by the chief shall post with the division security as 510
may be required by the director of natural resources. The chief 511
may issue an order temporarily or permanently restricting or 512
suspending an agent's authorization without a hearing if the chief 513
finds that the agent has violated this chapter or Chapter 1548. of 514

the Revised Code, rules adopted under them, or any agreements 515
prescribed by the chief. 516

(I) All records of the division made or kept pursuant to this 517
section shall be public records. Those records shall be available 518
for inspection at reasonable hours and in a manner compatible with 519
normal operations of the division. 520

(J) The owner shall furnish the division notice within 521
fifteen days of the following: 522

(1) The transfer, other than through the creation of a 523
security interest in any watercraft, of all or any part of the 524
owner's interest or, if the watercraft is owned by two persons 525
under joint ownership with right of survivorship established under 526
section ~~2106.17~~ 2131.12 of the Revised Code, of all or any part of 527
the joint interest of either of the two persons. The transfer 528
shall not terminate the registration certificate. 529

(2) Any change in the address appearing on the certificate 530
and, as a part of the notification, shall furnish the chief with 531
the owner's new address; 532

(3) The destruction or abandonment of the watercraft. 533

(K) The chief may issue duplicate registration certificates 534
or duplicate tags to owners of currently registered watercraft, 535
the fee for which shall be four dollars. 536

(L) If the chief finds that a registration certificate 537
previously issued to an owner is in error to a degree that would 538
impair its basic purpose and use, the chief may issue a corrected 539
certificate to the owner without charge. 540

(M) No authorized agent shall issue and no person shall 541
receive or accept from an authorized agent a registration 542
certificate assigned to the authorized agent under division (H) of 543
this section unless the exact month, day, and year of issue are 544
plainly written ~~thereon~~ on the certificate by the agent. 545

Certificates issued with incorrect dates of issue are void from 546
the time they are issued. 547

(N) The chief, in accordance with Chapter 119. of the Revised 548
Code, shall adopt rules governing the renewal of watercraft 549
registrations by electronic means. 550

(O) As used in this section: 551

(1) "Disabled veteran" means a person who is included in 552
either of the following categories: 553

(a) Because of a service-connected disability, has been or is 554
awarded funds for the purchase of a motor vehicle under the 555
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 556
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 557

(b) Has a service-connected disability rated at one hundred 558
per cent by the veterans administration. 559

(2) "Prisoner of war" means any regularly appointed, 560
enrolled, enlisted, or inducted member of the military forces of 561
the United States who was captured, separated, and incarcerated by 562
an enemy of the United States at any time, and any regularly 563
appointed, enrolled, or enlisted member of the military forces of 564
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 565
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 566
South Africa, or the republics formerly associated with the Union 567
of Soviet Socialist Republics or Yugoslavia who was a citizen of 568
the United States at the time of the appointment, enrollment, or 569
enlistment, and was captured, separated, and incarcerated by an 570
enemy of this country during World War II. 571

(P) Any disabled veteran, congressional medal of honor 572
awardee, or prisoner of war may apply to the chief for a 573
certificate of registration, or for a renewal of the certificate 574
of registration, without the payment of any fee required by this 575
section. The application for a certificate of registration shall 576

be accompanied by evidence of disability or by documentary 577
evidence in support of a congressional medal of honor that the 578
chief requires by rule. The application for a certificate of 579
registration by any person who has been a prisoner of war shall be 580
accompanied by written evidence in the form of a record of 581
separation, a letter from one of the armed forces of a country 582
listed in division (O)(2) of this section, or other evidence that 583
the chief may require by rule, that the person was honorably 584
discharged or is currently residing in this state on active duty 585
with one of the branches of the armed forces of the United States, 586
or was a prisoner of war and was honorably discharged or received 587
an equivalent discharge or release from one of the armed forces of 588
a country listed in division (O)(2) of this section. 589

(Q) Annually by the fifteenth day of January, the director of 590
natural resources shall determine the amount of fees that would 591
have been collected in the prior calendar year for each 592
certificate of registration issued or renewed pursuant to division 593
(P) of this section and shall certify the total amount of foregone 594
revenue to the director of budget and management for 595
reimbursement. The director of budget and management shall 596
transfer the amount certified from the general revenue fund to the 597
waterways safety fund created pursuant to section 1547.75 of the 598
Revised Code. 599

Sec. 1548.07. (A) An application for a certificate of title 600
shall be sworn to before a notary public or other officer 601
empowered to administer oaths by the lawful owner or purchaser of 602
the watercraft or outboard motor and shall contain the following 603
information in the form and together with any other information 604
that the chief of the division of watercraft may require: 605

(1) Name, address, and social security number or employer's 606
tax identification number of the applicant; 607

- (2) Statement of how the watercraft or outboard motor was acquired; 608
609
- (3) Name and address of the previous owner; 610
- (4) A statement of all liens, mortgages, or other encumbrances on the watercraft or outboard motor, including a description of the nature and amount of each lien, mortgage, or encumbrance, and the name and address of each holder thereof of the lien, mortgage, or encumbrance; 611
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- (5) If there are no outstanding liens, mortgages, or other encumbrances, a statement of that fact; 616
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- (6) A description of the watercraft, including the make, year, length, series or model, if any, body type, hull identification number or ~~hull identification number~~ serial number, and make, manufacturer's serial number, and horsepower of any inboard motor or motors; or a description of the outboard motor, including the make, year, series or model, if any, manufacturer's serial number, and horsepower; 618
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- ~~(G)~~(7) The purchase price, trade-in allowed, and amount of sales or use tax paid under Chapter 5739. or 5741. of the Revised Code. 625
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627
- (B) If the application is made by two persons regarding a watercraft or outboard motor in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section ~~2106.17~~ 2131.12 of the Revised Code. 628
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- (C) If the applicant wishes to designate a watercraft or outboard motor in beneficiary form, the applicant may do so as provided in section 2131.13 of the Revised Code. 632
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- (D) If the watercraft or outboard motor contains a permanent identification number placed ~~thereon~~ on the watercraft or outboard motor by the manufacturer, this number shall be used as the serial 635
636
637

number or hull identification number. If there is no 638
manufacturer's identification number, or if the manufacturer's 639
identification number has been removed or obliterated, the chief, 640
upon receipt of a prescribed application and proof of ownership, 641
may assign an identification number for the watercraft or outboard 642
motor, and this number shall be permanently affixed or imprinted 643
by the applicant, at the place and in the manner designated by the 644
chief, upon the watercraft or outboard motor for which it is 645
assigned. 646

Sec. 1548.071. Any two persons may establish in accordance 647
with section ~~2106.17~~ 2131.12 of the Revised Code joint ownership 648
with right of survivorship in a watercraft or outboard motor for 649
which a certificate of title is required under this chapter and 650
that one or both of them owns. Two persons who establish joint 651
ownership with right of survivorship in a watercraft or outboard 652
motor in accordance with section ~~2106.17~~ 2131.12 of the Revised 653
Code may terminate the joint ownership with right of survivorship 654
by applying for a title in accordance with ~~Chapter 1548.~~ of the 655
~~Revised Code~~ this chapter. 656

Sec. 1548.072. Any person who owns a watercraft or outboard 657
motor for which a certificate of title is required under this 658
chapter may establish ownership of the watercraft or outboard 659
motor that is transferable on death by designating the watercraft 660
or outboard motor in beneficiary form in accordance with section 661
2131.13 of the Revised Code. Any person who establishes ownership 662
of a watercraft or outboard motor that is transferable on death in 663
accordance with section 2131.13 of the Revised Code may terminate 664
that type of ownership or change the designation of the 665
transfer-on-death beneficiary or beneficiaries by applying for a 666
certificate of title in accordance with this chapter. 667

Sec. 1548.08. When the clerk of a court of common pleas 668
issues a physical certificate of title for a watercraft or 669
outboard motor, the clerk shall issue it over the clerk's official 670
seal. All physical certificates of title to watercraft or outboard 671
motors shall contain the information required in the application 672
for them as prescribed by section 1548.07 of the Revised Code, as 673
well as spaces for the dates of notation and cancellation of each 674
lien, mortgage, or encumbrance, over the signature of the clerk. 675
If any certificate of title is issued for a watercraft or outboard 676
motor in which two persons are establishing joint ownership with 677
right of survivorship under section ~~2106.17~~ 2131.12 of the Revised 678
Code, the certificate, in addition to the information required by 679
this section, shall show that the two persons have established 680
joint ownership with right of survivorship in the watercraft or 681
outboard motor. If the certificate of title is issued for a 682
watercraft or outboard motor that is designated in beneficiary 683
form under section 2131.13 of the Revised Code, in addition to the 684
information required by this section, the certificate shall show 685
that the present owner of the watercraft or outboard motor has 686
designated a specified transfer-on-death beneficiary or 687
beneficiaries who will take ownership of the watercraft or 688
outboard motor at the death of the present owner in accordance 689
with section 2131.13 of the Revised Code. 690

691
An assignment of certificate of title before a notary public 692
or other officer empowered to administer oaths shall appear on the 693
reverse side of each physical certificate of title in the form to 694
be prescribed by the chief of the division of watercraft. The 695
assignment form shall include a warranty that the signer is the 696
owner of the watercraft or outboard motor and that there are no 697
mortgages, liens, or encumbrances on the watercraft or outboard 698
motor except ~~as~~ those that are noted on the face of the 699

certificate of title. 700

Sec. 1548.11. (A) In the event of the transfer of ownership 701
of a watercraft or outboard motor by operation of law, as upon 702
inheritance, devise, bequest, order in bankruptcy, insolvency, 703
replevin, or execution of sale, or whenever the engine of a 704
watercraft is replaced by another engine, ~~or whenever~~ a watercraft 705
or outboard motor is sold to satisfy storage or repair charges, or 706
repossession is had upon default in performance of the terms of a 707
security agreement as provided in Chapter 1309. of the Revised 708
Code, a clerk of a court of common pleas, upon the surrender of 709
the prior certificate of title or the manufacturer's or importer's 710
certificate, or, when that is not possible, upon presentation of 711
satisfactory proof to the clerk of ownership and rights of 712
possession to the watercraft or outboard motor, and upon payment 713
of the fee prescribed in section 1548.10 of the Revised Code and 714
presentation of an application for certificate of title, may issue 715
to the applicant a certificate of title to the watercraft or 716
outboard motor. Only an affidavit by the person or agent of the 717
person to whom possession of the watercraft or outboard motor has 718
passed, setting forth the facts entitling the person to possession 719
and ownership, together with a copy of the journal entry, court 720
order, or instrument upon which the claim of possession and 721
ownership is founded, is satisfactory proof of ownership and right 722
of possession. If the applicant cannot produce such proof of 723
ownership, the applicant may apply directly to the chief of the 724
division of watercraft and submit such evidence as the applicant 725
has, and the chief, if the chief finds the evidence sufficient, 726
may authorize the clerk to issue a certificate of title. If, from 727
the records in the office of the clerk, there appears to be any 728
lien on the watercraft or outboard motor, the certificate of title 729
shall contain a statement of the lien unless the application is 730
accompanied by proper evidence of its extinction. 731

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(B) Upon the death of one of the persons who have established 734
joint ownership with right of survivorship under section ~~2106.17~~ 735
2131.12 of the Revised Code in a watercraft or outboard motor and 736
the presentation to the clerk of the title and the certificate of 737
death of the deceased person, the clerk shall enter into the 738
records the transfer of the watercraft or outboard motor to the 739
surviving person, and the title to the watercraft or outboard 740
motor immediately passes to the surviving person. The transfer 741
does not affect any liens on the watercraft or outboard motor. 742
743

(C) The clerk shall transfer a decedent's interest in one 744
watercraft, one outboard motor, or one of each to the decedent's 745
surviving spouse as provided in section 2106.19 of the Revised 746
Code. 747

(D) Upon the death of an owner of a watercraft or outboard 748
motor designated in beneficiary form under section 2131.13 of the 749
Revised Code, upon application of the transfer-on-death 750
beneficiary or beneficiaries designated pursuant to that section, 751
and upon presentation to the clerk of the certificate of title and 752
the certificate of death of the deceased owner, the clerk shall 753
transfer the watercraft or outboard motor and issue a certificate 754
of title to the transfer-on-death beneficiary or beneficiaries. 755
The transfer does not affect any liens upon any watercraft or 756
outboard motor so transferred. 757

Sec. 2106.18. (A) Upon the death of a married resident who 758
owned at least one automobile at the time of death, the interest 759
of the deceased spouse in up to two automobiles that are not 760
transferred to the surviving spouse due to joint ownership with 761
right of survivorship established under section ~~2106.17~~ 2131.12 of 762

the Revised Code, that are not transferred to a transfer-on-death 763
beneficiary or beneficiaries designated under section 2131.13 of 764
the Revised Code, and that are not otherwise specifically disposed 765
of by testamentary disposition, may be selected by the surviving 766
spouse. This interest shall immediately pass to the surviving 767
spouse upon transfer of the title or titles in accordance with 768
section 4505.10 of the Revised Code. The sum total of the values 769
of the automobiles selected by a surviving spouse under this 770
division, as specified in the affidavit that the surviving spouse 771
executes pursuant to division (B) of section 4505.10 of the 772
Revised Code, shall not exceed forty thousand dollars. Each 773
automobile that passes to a surviving spouse under this division 774
shall not be considered an estate asset and shall not be included 775
in the estate inventory. 776

(B) The executor or administrator, with the approval of the 777
probate court, may transfer title to an automobile owned by the 778
decedent to any of the following: 779

(1) The surviving spouse, when the automobile is purchased by 780
the surviving spouse pursuant to section 2106.16 of the Revised 781
Code; 782

(2) A distributee; 783

(3) A purchaser. 784

(C) The executor or administrator may transfer title to an 785
automobile owned by the decedent without the approval of the 786
probate court to any of the following: 787

(1) A legatee entitled to the automobile under the terms of 788
the will; 789

(2) A distributee if the distribution of the automobile is 790
made without court order pursuant to section 2113.55 of the 791
Revised Code; 792

(3) A purchaser if the sale of the automobile is made 793

pursuant to section 2113.39 of the Revised Code. 794

(D) As used in division (A) of this section, "automobile" 795
includes a truck if the truck was used as a method of conveyance 796
by the deceased spouse or the deceased spouse's family when the 797
deceased spouse was alive. 798

Sec. 2107.06. No person under eighteen years of age shall 799
witness a will executed pursuant to section 2107.03 of the Revised 800
Code or an agreement to make a will or to make a devise or bequest 801
by will pursuant to section 2107.04 of the Revised Code. 802

Sec. 2107.27. (A) When application is made to the probate 803
court to admit to probate a will that has been lost, spoliated, or 804
destroyed, the party seeking to prove the will shall give a 805
written notice by certified mail to the surviving spouse, to the 806
next of kin of the testator, and to all persons whose interest it 807
may be to resist the probate who would be entitled to inherit from 808
the testator under Chapter 2105. of the Revised Code if the 809
testator had died intestate, to all legatees and devisees that are 810
named in the will, and to all legatees and devisees that are named 811
in the most recent will prior to the lost, spoliated, or destroyed 812
will that is known to the applicant. 813

(B) In such the cases described in division (A) of this 814
section, the court proponents and opponents of the will shall 815
cause the witnesses to the will, and any other witnesses that a 816
person interested in having have relevant and material knowledge 817
about the will admitted to probate desires, to have appear, to 818
come before the court to testify. The witnesses shall be examined 819
by the probate judge, and their testimony shall be reduced to 820
writing and then filed in the records of the probate court 821
pertaining to the testator's estate. When If any witnesses reside 822
out of its jurisdiction, or reside within its jurisdiction but are 823

infirm or unable to attend, the probate court may order their 824
testimony to be taken and reduced to writing by some competent 825
person, ~~which.~~ The testimony shall be filed in ~~such~~ the records of 826
the probate court pertaining to the testator's estate. 827

~~(C) If upon such proof, the court is satisfied that the will 828
was executed in the manner provided by the law in force at the 829
time of its execution, that its contents are substantially proved, 830
that it was unrevoked at the death of the testator, and has been 831
lost, spoliated, or destroyed since his death, since he became 832
incapable of making a will by reason of insanity, or before the 833
death of the testator if his lack of knowledge of the loss, 834
spoliation, or destruction can be proved by clear and convincing 835
testimony finds that the requirements of section 2107.26 of the 836
Revised Code have been met, the probate court shall find and 837
establish the contents of the will as near as can be ascertained 838
and ~~cause them and the testimony taken in the case to be recorded 839
in the probate court.~~ The 840~~

~~The~~ contents of the will shall be as effectual for all 841
purposes as if the original will had been admitted to probate and 842
record. 843

Sec. 2107.28. If a will is lost, spoliated, destroyed, 844
misplaced, or stolen, after it has been admitted to probate but 845
before it has been recorded, upon notice being given, to the 846
persons as provided by section 2107.27 of the Revised Code, ~~to 847
persons whose interest it may be to resist the probate and record 848
of such will~~ the probate court may hear testimony, ~~and if.~~ If the 849
court is satisfied that the contents of the will have been 850
substantially proved, the court may record ~~such~~ the will as thus 851
proven, ~~which.~~ The record shall have all the ~~effect~~ effects of a 852
record of the original will. 853

Sec. 2109.62. (A)(1) Upon the filing of a motion by a trustee 854

with the court that has jurisdiction over the trust, upon the 855
provision of reasonable notice to all beneficiaries who are known 856
and in being and who have vested or contingent interests in the 857
trust, and after holding a hearing, the court may terminate the 858
trust, in whole or in part, if it determines that all of the 859
following apply: 860

(a) It is no longer economically feasible to continue the 861
trust~~+~~. 862

(b) The termination of the trust is for the benefit of the 863
beneficiaries~~+~~. 864

(c) The termination of the trust is equitable and practical~~+~~. 865
866

(d) The current value of the trust is less than ~~fifty~~ one 867
hundred thousand dollars. 868

(2) The existence of a spendthrift or similar provision in a 869
trust instrument or will does not preclude the termination of a 870
trust pursuant to this section. 871

(B) If property is to be distributed from an estate being 872
probated to a trust and the termination of the trust pursuant to 873
this section does not clearly defeat the intent of the testator, 874
the probate court has jurisdiction to order the outright 875
distribution of the property or to make the property custodial 876
property under sections 1339.31 to 1339.39 of the Revised Code. A 877
probate court may so order whether the application for the order 878
is made by an inter vivos trustee named in the will of the 879
decedent or by a testamentary trustee. 880

Sec. 2113.30. (A) Except as otherwise directed by the 881
decedent in ~~his~~ the decedent's last will and testament, an 882
executor or administrator ~~may~~, without personal liability for 883
losses incurred, may continue the decedent's business during ~~one~~ 884

~~month~~ four months next following the date of the appointment of 885
~~such that~~ executor or administrator, unless the probate court 886
directs otherwise, and for ~~such any~~ further time ~~as that~~ the court 887
may authorize ~~on~~ upon a hearing and after notice to the surviving 888
spouse and distributees. In either case, no debts incurred or 889
contracts entered into shall involve the estate beyond the assets 890
used in ~~such that~~ business immediately prior to the death of the 891
decedent without first obtaining the approval of the court ~~first~~ 892
~~obtained~~. During the time the business is continued, the executor 893
or administrator shall file monthly reports in the court, setting 894
forth the receipts and expenses of the business for the preceding 895
month and ~~such any~~ other pertinent information ~~as that~~ the court 896
may require. The executor or administrator may not bind the estate 897
without court approval beyond the period during which the business 898
is continued. 899

(B) As used in this section, "decedent's business" means a 900
business that is owned by the decedent as a sole proprietor at the 901
time of the decedent's death. "Decedent's business" does not 902
include a business that is owned in whole or in part by the 903
decedent as a shareholder of a corporation, a member of a limited 904
liability company, or a partner of a partnership, or under any 905
other form of ownership other than a sole proprietorship. 906

Sec. 2113.61. (A)(1) When real property passes by the laws of 907
intestate succession or under a will, the administrator or 908
executor shall file in probate court, at any time after the filing 909
of an inventory that includes the real property but prior to the 910
filing of the administrator's or executor's final account, an 911
application requesting the court to issue a certificate of 912
transfer as to the real property. Real property sold by an 913
executor or administrator or land registered under Chapters 5309. 914
and 5310. of the Revised Code is excepted from the application 915
requirement. Cases in which an order has been made under section 916

2113.03 of the Revised Code relieving an estate from 917
administration and in which the order directing transfer of real 918
property to the person entitled to it may be substituted for the 919
certificate of transfer also are excepted from the application 920
requirement. 921

(2) In accordance with division (C)(3)(b) of section 2113.031 922
of the Revised Code, an application for a certificate of transfer 923
of an interest in real property included in the assets of the 924
decedent's estate shall accompany an application for a summary 925
release from administration under that section. This section 926
applies to the application for and the issuance of the requested 927
certificate of transfer except to the extent that the probate 928
court determines that the nature of any of the provisions of this 929
section is inconsistent with the nature of a grant of a summary 930
release from administration. 931

(B) Subject to division (A)(2) of this section, the 932
application for a certificate of transfer shall contain all of the 933
following: 934

(1) The name, place of residence at death, and date of death 935
of the decedent; 936

(2) A statement whether the decedent died testate or 937
intestate; 938

(3) The fact and date of the filing and probate of the will, 939
if applicable, and the fact and date of the appointment of the 940
administrator or executor; 941

(4) A description of each parcel of real property situated in 942
this state that is owned by the decedent at the time of death; 943

(5) Insofar as they can be ascertained, the names, ages, 944
places of residence, and relationship to the decedent of the 945
persons to whom each parcel of real property described in division 946
(B)(4) of this section passed by descent or devise; 947

(6) A statement that all the known debts of the decedent's estate have been paid or secured to be paid, or that sufficient other assets are in hand to complete the payment of those debts;	948 949 950
(7) Other pertinent information that the court requires.	951
(C) Subject to division (A)(2) of this section, <u>within five days following the filing of an application for a certificate of transfer that complies with division (B) of this section</u> , the court shall issue a certificate of transfer for record in each county in this state in which real property so passing is situated, that shall recite all of the following:	952 953 954 955 956 957
(1) The name and date of death of the decedent;	958
(2) Whether the decedent died testate or intestate and, if testate, the volume and page of the record of the will;	959 960
(3) The volume and page of the probate court record of the administration of the estate;	961 962
(4) The names and places of residence of the devisees, the interests passing to them, the names and places of residence of the persons inheriting intestate, and the interests inherited by them, in each parcel of real property described in division (B)(4) of this section;	963 964 965 966 967
(5) A description of each parcel of real property described in division (B)(4) of this section;	968 969
(6) Other information that in the opinion of the court should be included.	970 971
(D) If an executor or administrator has failed to file an application for a certificate of transfer before being discharged, the application may be filed by an heir or devisee, or a successor in interest, in the probate court in which the testator's will was probated or, in the case of intestate estates, in the probate court in which administration was had. If no administration was	972 973 974 975 976 977

had on an estate and if no administration is contemplated, except 978
in the case of the grant of or contemplated application for the 979
grant of an order of a summary release from administration under 980
section 2113.031 of the Revised Code, an application for a 981
certificate of transfer may be filed by an heir or devisee, or a 982
successor in interest, in the probate court of the county in which 983
the decedent was a resident at the time of death. 984

A foreign executor or administrator, when no ancillary 985
administration proceedings have been had or are being had in this 986
state, may file in accordance with this section an application for 987
a certificate of transfer in the probate court of any county of 988
this state in which real property of the decedent is located. 989

When a person who has entered into a written contract for the 990
sale and conveyance of an interest in real property dies before 991
its completion, the interest of the decedent in the contract and 992
the record title to the real property described in the contract 993
may be transferred to the persons, legatees, devisees, or heirs at 994
law entitled to the interest of the decedent in the real property, 995
in the same manner as provided in this section and sections 996
2113.62 and 2113.63 of the Revised Code for the transfer of real 997
property. The application for the certificate of transfer and the 998
certificate itself also shall recite that the real property 999
described in the application or certificate is subject to a 1000
written contract for its sale and conveyance. 1001

Sec. 2117.25. (A) Every executor or administrator shall 1002
proceed with diligence to pay the debts of the decedent, and shall 1003
apply the assets in the following order: 1004

~~(A)~~(1) Costs and expenses of administration; 1005

~~(B)~~(2) An amount, not exceeding two thousand dollars, for 1006
funeral expenses that are included in the bill of a funeral 1007
director, funeral expenses other than those in the bill of a 1008

funeral director that are approved by the probate court, and an 1009
amount, not exceeding two thousand dollars, for burial and 1010
cemetery expenses, including that portion of the funeral 1011
director's bill allocated to cemetery expenses that have been paid 1012
to the cemetery by the funeral director. 1013

For purposes of this division, burial and cemetery expenses 1014
shall be limited to the following: 1015

~~(1)~~(a) The purchase of a place of interment; 1016

~~(2)~~(b) Monuments or other markers; 1017

~~(3)~~(c) The outer burial container; 1018

~~(4)~~(d) The cost of opening and closing the place of 1019
interment; 1020

~~(5)~~(e) The urn. 1021

~~(C)~~(3) The allowance for support made to the surviving 1022
spouse, minor children, or both under section 2106.13 of the 1023
Revised Code; 1024

~~(D)~~(4) Debts entitled to a preference under the laws of the 1025
United States; 1026

~~(E)~~(5) Expenses of the last sickness of the decedent; 1027

~~(F)~~(6) If the total bill of a funeral director for funeral 1028
expenses exceeds two thousand dollars, then, in addition to the 1029
amount described in division ~~(B)~~(A)~~(2)~~ of this section, an amount, 1030
not exceeding one thousand dollars, for funeral expenses that are 1031
included in the bill and that exceed two thousand dollars; 1032

~~(G)~~(7) Personal property taxes and obligations for which the 1033
decedent was personally liable to the state or any of its 1034
subdivisions; 1035

~~(H)~~(8) Debts for manual labor performed for the decedent 1036
within twelve months preceding the decedent's death, not exceeding 1037

three hundred dollars to any one person; 1038

~~(I)~~(9) Other debts for which claims have been presented and 1039
finally allowed. 1040

(B) The part of the bill of a funeral director that exceeds 1041
the total of three thousand dollars as described in divisions 1042
~~(B)~~(A)(2) and ~~(F)~~(6) of this section, and the part of a claim 1043
included in division ~~(H)~~(A)(8) of this section that exceeds three 1044
hundred dollars shall be included as a debt under division 1045
~~(I)~~(A)(9) of this section, depending upon the time when the claim 1046
for the additional amount is presented. 1047

(C) Any natural person or fiduciary who pays a claim of any 1048
creditor described in division (A) of this section shall be 1049
subrogated to the rights of that creditor proportionate to the 1050
amount of the payment and shall be entitled to reimbursement for 1051
that amount in accordance with the priority of payments set forth 1052
in that division. 1053

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 1054
to the manner in which and the time within which claims shall be 1055
presented, shall apply to claims set forth in divisions ~~(B)~~(A)(2), 1056
~~(F)~~(6), and ~~(H)~~(8) of this section. Claims for an expense of 1057
administration or for the allowance for support need not be 1058
presented. The executor or administrator shall pay debts included 1059
in divisions ~~(D)~~(A)(4) and ~~(G)~~(7) of this section, of which the 1060
executor or administrator has knowledge, regardless of 1061
presentation. 1062

(2) The giving of written notice to an executor or 1063
administrator of a motion or application to revive an action 1064
pending against the decedent at the date of death shall be 1065
equivalent to the presentation of a claim to the executor or 1066
administrator for the purpose of determining the order of payment 1067
of any judgment rendered or decree entered in such an action. 1068

(E) No payments shall be made to creditors of one class until 1069
all those of the preceding class are fully paid or provided for. 1070
If the assets are insufficient to pay all the claims of one class, 1071
the creditors of that class shall be paid ratably. 1072

(F) If it appears at any time that the assets have been 1073
exhausted in paying prior or preferred charges, allowances, or 1074
claims, ~~such~~ those payments shall be a bar to an action on any 1075
claim not entitled to ~~such~~ that priority or preference. 1076

Sec. ~~2106.17~~ 2131.12. (A) As used in this section: 1077

(1) "Motor vehicle" has the same meaning as in section 1078
4505.01 of the Revised Code. 1079

(2) "Joint ownership with right of survivorship" means a form 1080
of ownership of a motor vehicle, watercraft, or outboard motor 1081
that is established pursuant to this section and pursuant to which 1082
the entire interest in the motor vehicle, watercraft, or outboard 1083
motor is held by two persons for their joint lives and thereafter 1084
by the survivor of them. 1085

(3) "Watercraft" has the same meaning as in division (A) of 1086
section 1548.01 of the Revised Code. 1087

(B)(1) Any two persons may establish in accordance with this 1088
section joint ownership with right of survivorship in a motor 1089
vehicle or in a watercraft or outboard motor for which a 1090
certificate of title is required under Chapter 1548. of the 1091
Revised Code. 1092

(2) If two persons wish to establish joint ownership with 1093
right of survivorship in a motor vehicle or in a watercraft or 1094
outboard motor that is required to be titled under Chapter 1548. 1095
of the Revised Code, they may make a joint application for a 1096
certificate of title under section 4505.06 or 1548.07 of the 1097
Revised Code, as applicable. 1098

(C) If two persons have established in a certificate of title joint ownership with right of survivorship in a motor vehicle or a watercraft or outboard motor that is required to be titled under Chapter 1548. of the Revised Code, and if one of those persons dies, the interest of the deceased person in the motor vehicle, watercraft, or outboard motor shall pass to the survivor of them upon transfer of title to the motor vehicle or watercraft or outboard motor in accordance with section 4505.10 or 1548.11 of the Revised Code. The motor vehicle, watercraft, or outboard motor shall not be considered an estate asset and shall not be included and stated in the estate inventory.

Sec. 2131.13. (A) As used in this section:

(1) "Designate or designation in beneficiary form" means to designate, or the designation of, a motor vehicle, watercraft, or outboard motor in a certificate of title that indicates the present owner of the motor vehicle, watercraft, or outboard motor and the intention of the present owner with respect to the transfer of ownership on the present owner's death by designating one or more persons as the beneficiary or beneficiaries who will become the owner or owners of the motor vehicle, watercraft, or outboard motor upon the death of the present owner.

(2) "Motor vehicle" has the same meaning as in section 4505.01 of the Revised Code.

(3) "Person" means an individual, a corporation, an organization, or other legal entity.

(4) "Transfer-on-death beneficiary or beneficiaries" means a person or persons specified in a certificate of title of a motor vehicle, watercraft, or outboard motor who will become the owner or owners of the motor vehicle, watercraft, or outboard motor upon the death of the present owner of the motor vehicle, watercraft, or outboard motor.

(5) "Watercraft" has the same meaning as in section 1548.01 1130
of the Revised Code. 1131

(B) An individual whose certificate of title of a motor 1132
vehicle, watercraft, or outboard motor shows sole ownership by 1133
that individual may make an application for a certificate of title 1134
under section 1548.07 or 4505.06 of the Revised Code to designate 1135
that motor vehicle, watercraft, or outboard motor in beneficiary 1136
form pursuant to this section. 1137

(C)(1) A motor vehicle, watercraft, or outboard motor is 1138
designated in beneficiary form if the certificate of title of the 1139
motor vehicle, watercraft, or outboard motor includes the name or 1140
names of the transfer-on-death beneficiary or beneficiaries. 1141

(2) The designation of a motor vehicle, watercraft, or 1142
outboard motor in beneficiary form is not required to be supported 1143
by consideration, and the certificate of title in which the 1144
designation is made is not required to be delivered to the 1145
transfer-on-death beneficiary or beneficiaries in order for the 1146
designation in beneficiary form to be effective. 1147

(D) The designation of a motor vehicle, watercraft, or 1148
outboard motor in beneficiary form may be shown in the certificate 1149
of title by the words "transfer-on-death" or the abbreviation 1150
"TOD" after the name of the owner of a motor vehicle, watercraft, 1151
or outboard motor and before the name or names of the 1152
transfer-on-death beneficiary or beneficiaries. 1153

(E) The designation of a transfer-on-death beneficiary or 1154
beneficiaries on a certificate of title has no effect on the 1155
ownership of a motor vehicle, watercraft, or outboard motor until 1156
the death of the owner of the motor vehicle, watercraft, or 1157
outboard motor. The owner of a motor vehicle, watercraft, or 1158
outboard motor may cancel or change the designation of a 1159
transfer-on-death beneficiary or beneficiaries on a certificate of 1160

title at any time without the consent of the transfer-on-death beneficiary or beneficiaries by making an application for a certificate of title under section 1548.07 or 4505.06 of the Revised Code. 1161
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(F)(1) Upon the death of the owner of a motor vehicle, watercraft, or outboard motor designated in beneficiary form, the ownership of the motor vehicle, watercraft, or outboard motor shall pass to the transfer-on-death beneficiary or beneficiaries who survive the owner upon transfer of title to the motor vehicle, watercraft, or outboard motor in accordance with section 1548.11 or 4505.10 of the Revised Code. The transfer-on-death beneficiary or beneficiaries who survive the owner may apply for a certificate of title to the motor vehicle, watercraft, or outboard motor upon submitting proof of the death of the owner of the motor vehicle, watercraft, or outboard motor. 1165
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(2) If no transfer-on-death beneficiary or beneficiaries survive the owner of a motor vehicle, watercraft, or outboard motor, the motor vehicle, watercraft, or outboard motor shall be included in the probate estate of the deceased owner. 1176
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(G)(1) Any transfer of a motor vehicle, watercraft, or outboard motor to a transfer-on-death beneficiary or beneficiaries that results from a designation of the motor vehicle, watercraft, or outboard motor in beneficiary form is not testamentary. 1180
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(2) This section does not limit the rights of any creditor of the owner of a motor vehicle, watercraft, or outboard motor against any transfer-on-death beneficiary or beneficiaries or other transferees of the motor vehicle, watercraft, or outboard motor under other laws of this state. 1184
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(H)(1) This section shall be known and may be cited as the "Transfer-on-Death of Motor Vehicle, Watercraft, or Outboard Motor Statute." 1189
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(2) Divisions (A) to (H) of this section shall be liberally construed and applied to promote their underlying purposes and policy. 1192
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(3) Unless displaced by particular provisions of divisions (A) to (H) of this section, the principles of law and equity supplement the provisions of those divisions. 1195
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Sec. 2305.121. (A) Any of the following actions pertaining to a revocable trust that is made irrevocable by the death of the grantor of the trust shall be commenced within two years after the date of the death of the grantor of the trust: 1198
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(1) An action to contest the validity of the trust; 1202

(2) An action to contest the validity of any amendment to the trust that was made during the lifetime of the grantor of the trust; 1203
1204
1205

(3) An action to contest the revocation of the trust during the lifetime of the grantor of the trust; 1206
1207

(4) An action to contest the validity of any transfer made to the trust during the lifetime of the grantor of the trust. 1208
1209

(B) Upon the death of the grantor of a revocable trust that was made irrevocable by the death of the grantor, the trustee, without liability, may proceed to distribute the trust property in accordance with the terms of the trust unless either of the following applies: 1210
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(1) The trustee has actual knowledge of a pending action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the grantor of the trust. 1215
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(2) The trustee receives written notification from a potential contestant of a potential action to contest the validity 1219
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of the trust, any amendment to the trust, the revocation of the 1221
trust, or any transfer made to the trust during the lifetime of 1222
the grantor of the trust, and the action is actually filed within 1223
ninety days after the written notification was given to the 1224
trustee. 1225

(C) If a distribution of trust property is made pursuant to 1226
division (B) of this section, a beneficiary of the trust shall 1227
return any distribution to the extent that it exceeds the 1228
distribution to which the beneficiary is entitled if the trust, an 1229
amendment to the trust, or a transfer made to the trust later is 1230
determined to be invalid. 1231

(D) This section applies only to revocable trusts that are 1232
made irrevocable by the death of the grantor of the trust if the 1233
grantor dies on or after the effective date of this section. 1234

Sec. 3923.061. (A) On and after January 1, 2003, any 1235
insurance company authorized to do business in this state shall 1236
pay interest, in accordance with division (B) of this section and 1237
subject to division (C) of this section, on any proceeds that 1238
become due pursuant to the terms of a policy of sickness and 1239
accident insurance due to the death of the insured by sickness or 1240
accident. 1241

(B) The interest payable pursuant to division (A) of this 1242
section shall be computed from the date of the death of the 1243
insured to the date of the payment of the proceeds and shall be at 1244
whichever of the following rates is greater: 1245

(1) The annual short-term applicable federal rate for 1246
purposes of section 1274(d) of the Internal Revenue Code, as 1247
defined in section 5747.01 of the Revised Code, in effect for the 1248
month in which the insured died; 1249

(2) The current rate of interest on proceeds left on deposit 1250
with the company under an interest settlement option contained in 1251

the policy of sickness and accident insurance. 1252

(C) Division (A) or (B) of this section does not require the 1253
payment of interest unless the insured was a resident of this 1254
state on the date of the insured's death and unless the 1255
beneficiary under the policy of sickness and accident insurance 1256
elects in writing to receive, or a written election has been made 1257
for the beneficiary to receive, the proceeds of the policy by 1258
means of a lump sum payment. 1259

Sec. 4503.12. Upon the transfer of ownership of a motor 1260
vehicle, the registration of the motor vehicle expires, and the 1261
original owner immediately shall remove the license plates from 1262
the motor vehicle, except that: 1263

(A) If a statutory merger or consolidation results in the 1264
transfer of ownership of a motor vehicle from a constituent 1265
corporation to the surviving corporation, or if the incorporation 1266
of a proprietorship or partnership results in the transfer of 1267
ownership of a motor vehicle from the proprietorship or 1268
partnership to the corporation, the registration shall be 1269
continued upon the filing by the surviving or new corporation, 1270
within thirty days of such transfer, of an application for an 1271
amended certificate of registration, unless such registration is 1272
prohibited by division (D) of section 2935.27, division (A) of 1273
section 2937.221, division (B) of section 4507.168, or division 1274
(B)(1) of section 4521.10 of the Revised Code. The application 1275
shall be accompanied by a service fee of two dollars and 1276
seventy-five cents commencing on July 1, 2001, three dollars and 1277
twenty-five cents commencing on January 1, 2003, and three dollars 1278
and fifty cents commencing on January 1, 2004, a transfer fee of 1279
one dollar, and the original certificate of registration. Upon a 1280
proper filing, the registrar of motor vehicles shall issue an 1281
amended certificate of registration in the name of the new owner. 1282

(B) If the death of the owner of a motor vehicle results in 1283
the transfer of ownership of the motor vehicle to the surviving 1284
spouse of the owner or if a motor vehicle is owned by two persons 1285
under joint ownership with right of survivorship established under 1286
section ~~2106.17~~ 2131.12 of the Revised Code and one of those 1287
persons dies, the registration shall be continued upon the filing 1288
by the ~~surviving spouse~~ survivor of an application for an amended 1289
certificate of registration, unless such registration is 1290
prohibited by division (D) of section 2935.27, division (A) of 1291
section 2937.221, division (A) of section 4503.13, division (B) of 1292
section 4507.168, or division (B)(1) of section 4521.10 of the 1293
Revised Code. The application shall be accompanied by a service 1294
fee of two dollars and seventy-five cents commencing on July 1, 1295
2001, three dollars and twenty-five cents commencing on January 1, 1296
2003, and three dollars and fifty cents commencing on January 1, 1297
2004, a transfer fee of one dollar, the original certificate of 1298
registration, and, in relation to a motor vehicle that is owned by 1299
two persons under joint ownership with right of survivorship 1300
established under section ~~2106.17~~ 2131.12 of the Revised Code, by 1301
a copy of the certificate of title that specifies that the vehicle 1302
is owned under joint ownership with right of survivorship. Upon a 1303
proper filing, the registrar shall issue an amended certificate of 1304
registration in the name of the ~~surviving spouse~~ survivor. 1305

(C) If the death of the owner of a motor vehicle results in 1306
the transfer of ownership of the motor vehicle to a 1307
transfer-on-death beneficiary or beneficiaries designated under 1308
section 2131.13 of the Revised Code, the registration shall be 1309
continued upon the filing by the transfer-on-death beneficiary or 1310
beneficiaries of an application for an amended certificate of 1311
registration, unless that registration is prohibited by division 1312
(D) of section 2935.27, division (A) of section 2937.221, division 1313
(A) of section 4503.13, division (B) of section 4507.168, or 1314

division (B)(1) of section 4521.10 of the Revised Code. The 1315
application shall be accompanied by a service fee of two dollars 1316
and seventy-five cents commencing on July 1, 2001, three dollars 1317
and twenty-five cents commencing on January 1, 2003, and three 1318
dollars and fifty cents commencing on January 1, 2004, a transfer 1319
fee of one dollar, the original certificate of registration, and a 1320
copy of the certificate of title that specifies that the owner of 1321
the motor vehicle has designated the motor vehicle in beneficiary 1322
form under section 2131.13 of the Revised Code. Upon a proper 1323
filing, the registrar shall issue an amended certificate of 1324
registration in the name of the transfer-on-death beneficiary or 1325
beneficiaries. 1326

(D) If the original owner of a motor vehicle that has been 1327
transferred makes application for the registration of another 1328
motor vehicle at any time during the remainder of the registration 1329
period for which the transferred motor vehicle was registered, the 1330
owner, unless such registration is prohibited by division (D) of 1331
section 2935.27, division (A) of section 2937.221, division (A) of 1332
section 4503.13, division (E) of section 4503.234, division (B) of 1333
section 4507.168, or division (B)(1) of section 4521.10 of the 1334
Revised Code, may file an application for transfer of the 1335
registration and, where applicable, the license plates, 1336
accompanied by a service fee of two dollars and seventy-five cents 1337
commencing on July 1, 2001, three dollars and twenty-five cents 1338
commencing on January 1, 2003, and three dollars and fifty cents 1339
commencing on January 1, 2004, a transfer fee of one dollar, and 1340
the original certificate of registration. The transfer of the 1341
registration and, where applicable, the license plates from the 1342
motor vehicle for which they originally were issued to a 1343
succeeding motor vehicle purchased by the same person in whose 1344
name the original registration and license plates were issued 1345
shall be done within a period not to exceed thirty days. During 1346
that thirty-day period, the license plates from the motor vehicle 1347

for which they originally were issued may be displayed on the 1348
succeeding motor vehicle, and the succeeding motor vehicle may be 1349
operated on the public roads and highways in this state. 1350

At the time of application for transfer, the registrar shall 1351
compute and collect the amount of tax due on the succeeding motor 1352
vehicle, based upon the amount that would be due on a new 1353
registration as of the date on which the transfer is made less a 1354
credit for the unused portion of the original registration 1355
beginning on that date. If the credit exceeds the amount of tax 1356
due on the new registration, no refund shall be made. In computing 1357
the amount of tax due and credits to be allowed under this 1358
division, the provisions of division (B)(1)(a) and (b) of section 1359
4503.11 of the Revised Code shall apply. As to passenger cars, 1360
noncommercial vehicles, motor homes, and motorcycles, transfers 1361
within or between these classes of motor vehicles only shall be 1362
allowed. If the succeeding motor vehicle is of a different class 1363
than the motor vehicle for which the registration originally was 1364
issued, new license plates also shall be issued upon the surrender 1365
of the license plates originally issued and payment of the fees 1366
provided in divisions (C) and (D) of section 4503.10 of the 1367
Revised Code. 1368

~~(D)~~(E) The owner of a commercial car having a gross vehicle 1369
weight or combined gross vehicle weight of more than ten thousand 1370
pounds may transfer the registration of that commercial car to 1371
another commercial car the owner owns without transferring 1372
ownership of the first commercial car, unless registration of the 1373
second commercial car is prohibited by division (D) of section 1374
2935.27, division (A) of section 2937.221, division (A) of section 1375
4503.13, division (B) of section 4507.168, or division (B)(1) of 1376
section 4521.10 of the Revised Code. At any time during the 1377
remainder of the registration period for which the first 1378
commercial car was registered, the owner may file an application 1379

for the transfer of the registration and, where applicable, the 1380
license plates, accompanied by a service fee of two dollars and 1381
seventy-five cents commencing on July 1, 2001, three dollars and 1382
twenty-five cents commencing on January 1, 2003, and three dollars 1383
and fifty cents commencing on January 1, 2004, a transfer fee of 1384
one dollar, and the certificate of registration of the first 1385
commercial car. The amount of any tax due or credit to be allowed 1386
for a transfer of registration under this division shall be 1387
computed in accordance with division ~~(E)~~(D) of this section. 1388

No commercial car to which a registration is transferred 1389
under this division shall be operated on a public road or highway 1390
in this state until after the transfer of registration is 1391
completed in accordance with this division. 1392

~~(E)~~(F) Upon application to the registrar or a deputy 1393
registrar, a person who owns or leases a motor vehicle may 1394
transfer special license plates assigned to that vehicle to any 1395
other vehicle that the person owns or leases or that is owned or 1396
leased by the person's spouse. The application shall be 1397
accompanied by a service fee of two dollars and seventy-five cents 1398
commencing on July 1, 2001, three dollars and twenty-five cents 1399
commencing on January 1, 2003, and three dollars and fifty cents 1400
commencing on January 1, 2004, a transfer fee of one dollar, and 1401
the original certificate of registration. As appropriate, the 1402
application also shall be accompanied by a power of attorney for 1403
the registration of a leased vehicle and a written statement 1404
releasing the special plates to the applicant. Upon a proper 1405
filing, the registrar or deputy registrar shall assign the special 1406
license plates to the motor vehicle owned or leased by the 1407
applicant and issue a new certificate of registration for that 1408
motor vehicle. 1409

As used in division ~~(E)~~(F) of this section, "special license 1410
plates" means either of the following: 1411

(1) Any license plates for which the person to whom the license plates are issued must pay an additional fee in excess of the fees prescribed in section 4503.04 of the Revised Code, Chapter 4504. of the Revised Code, and the service fee prescribed in division (D) or (G) of section 4503.10 of the Revised Code;

(2) License plates issued under section 4503.44 of the Revised Code.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate

of title also shall be accompanied by that certificate of title 1443
duly assigned, unless otherwise provided in this chapter. If a 1444
certificate of title previously has not been issued for the motor 1445
vehicle in this state, the application, unless otherwise provided 1446
in this chapter, shall be accompanied by a manufacturer's or 1447
importer's certificate or by a certificate of title of another 1448
state from which the motor vehicle was brought into this state. If 1449
the application refers to a motor vehicle last previously 1450
registered in another state, the application also shall be 1451
accompanied by the physical inspection certificate required by 1452
section 4505.061 of the Revised Code. If the application is made 1453
by two persons regarding a motor vehicle in which they wish to 1454
establish joint ownership with right of survivorship, they may do 1455
so as provided in section ~~2106.17~~ 2131.12 of the Revised Code. If 1456
the applicant requests a designation of the motor vehicle in 1457
beneficiary form so that upon the death of the owner of the motor 1458
vehicle, ownership of the motor vehicle will pass to a designated 1459
transfer-on-death beneficiary or beneficiaries, the applicant may 1460
do so as provided in section 2131.13 of the Revised Code. A person 1461
who establishes ownership of a motor vehicle that is transferable 1462
on death in accordance with section 2131.13 of the Revised Code 1463
may terminate that type of ownership or change the designation of 1464
the transfer-on-death beneficiary or beneficiaries by applying for 1465
a certificate of title pursuant to this section. The clerk shall 1466
retain the evidence of title presented by the applicant and on 1467
which the certificate of title is issued, except that, if an 1468
application for a certificate of title is filed electronically by 1469
an electronic motor vehicle dealer on behalf of the purchaser of a 1470
motor vehicle, the clerk shall retain the completed electronic 1471
record to which the dealer converted the certificate of title 1472
application and other required documents. The electronic motor 1473
vehicle dealer shall forward the actual application and all other 1474
documents relating to the sale of the motor vehicle to any clerk 1475

within thirty days after the certificate of title is issued. The 1476
registrar, after consultation with the attorney general, shall 1477
adopt rules that govern the location at which, and the manner in 1478
which, are stored the actual application and all other documents 1479
relating to the sale of a motor vehicle when an electronic motor 1480
vehicle dealer files the application for a certificate of title 1481
electronically on behalf of the purchaser. 1482

1483
1484
The clerk shall use reasonable diligence in ascertaining 1485
whether or not the facts in the application for a certificate of 1486
title are true by checking the application and documents 1487
accompanying it or the electronic record to which a dealer 1488
converted the application and accompanying documents with the 1489
records of motor vehicles in the clerk's office. If the clerk is 1490
satisfied that the applicant is the owner of the motor vehicle and 1491
that the application is in the proper form, the clerk, within five 1492
business days after the application is filed, shall issue a 1493
physical certificate of title over the clerk's signature and 1494
sealed with the clerk's seal unless the applicant specifically 1495
requests the clerk not to issue a physical certificate of title 1496
and instead to issue an electronic certificate of title. For 1497
purposes of the transfer of a certificate of title, if the clerk 1498
is satisfied that the secured party has duly discharged a lien 1499
notation but has not canceled the lien notation with a clerk, the 1500
clerk may cancel the lien notation on the automated title 1501
processing system and notify the clerk of the county of origin. 1502

1503
(4) In the case of the sale of a motor vehicle to a general 1504
buyer or user by a dealer, by a motor vehicle leasing dealer 1505
selling the motor vehicle to the lessee or, in a case in which the 1506
leasing dealer subleased the motor vehicle, the sublessee, at the 1507

end of the lease agreement or sublease agreement, or by a
manufactured home broker, the certificate of title shall be
obtained in the name of the buyer by the dealer, leasing dealer,
or manufactured home broker, as the case may be, upon application
signed by the buyer. The certificate of title shall be issued, or
the process of entering the certificate of title application
information into the automated title processing system if a
physical certificate of title is not to be issued shall be
completed, within five business days after the application for
title is filed with the clerk. If the buyer of the motor vehicle
previously leased the motor vehicle and is buying the motor
vehicle at the end of the lease pursuant to that lease, the
certificate of title shall be obtained in the name of the buyer by
the motor vehicle leasing dealer who previously leased the motor
vehicle to the buyer or by the motor vehicle leasing dealer who
subleased the motor vehicle to the buyer under a sublease
agreement.

In all other cases, except as provided in section 4505.032
and division (D)(2) of section 4505.11 of the Revised Code, such
certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in
the name of the buyer by a motor vehicle dealer or motor vehicle
leasing dealer and there is a security interest to be noted on the
certificate of title, the dealer or leasing dealer shall submit
the application for the certificate of title and payment of the
applicable tax to a clerk within seven business days after the
later of the delivery of the motor vehicle to the buyer or the
date the dealer or leasing dealer obtains the manufacturer's or
importer's certificate, or certificate of title issued in the name
of the dealer or leasing dealer, for the motor vehicle. Submission
of the application for the certificate of title and payment of the
applicable tax within the required seven business days may be

indicated by postmark or receipt by a clerk within that period. 1540

(ii) Upon receipt of the certificate of title with the 1541
security interest noted on its face, the dealer or leasing dealer 1542
shall forward the certificate of title to the secured party at the 1543
location noted in the financing documents or otherwise specified 1544
by the secured party. 1545

(iii) A motor vehicle dealer or motor vehicle leasing dealer 1546
is liable to a secured party for a late fee of ten dollars per day 1547
for each certificate of title application and payment of the 1548
applicable tax that is submitted to a clerk more than seven 1549
business days but less than twenty-one days after the later of the 1550
delivery of the motor vehicle to the buyer or the date the dealer 1551
or leasing dealer obtains the manufacturer's or importer's 1552
certificate, or certificate of title issued in the name of the 1553
dealer or leasing dealer, for the motor vehicle and, from then on, 1554
twenty-five dollars per day until the application and applicable 1555
tax are submitted to a clerk. 1556

(b) In all cases of transfer of a motor vehicle, the 1557
application for certificate of title shall be filed within thirty 1558
days after the assignment or delivery of the motor vehicle. If an 1559
application for a certificate of title is not filed within the 1560
period specified in division (A)(5)(b) of this section, the clerk 1561
shall collect a fee of five dollars for the issuance of the 1562
certificate, except that no such fee shall be required from a 1563
motor vehicle salvage dealer, as defined in division (A) of 1564
section 4738.01 of the Revised Code, who immediately surrenders 1565
the certificate of title for cancellation. The fee shall be in 1566
addition to all other fees established by this chapter, and shall 1567
be retained by the clerk. The registrar shall provide, on the 1568
certificate of title form prescribed by section 4505.07 of the 1569
Revised Code, language necessary to give evidence of the date on 1570
which the assignment or delivery of the motor vehicle was made. 1571

1572
(6) As used in division (A) of this section, "lease 1573
agreement," "lessee," and "sublease agreement" have the same 1574
meanings as in section 4505.04 of the Revised Code. 1575

(B) The clerk, except as provided in this section, shall 1576
refuse to accept for filing any application for a certificate of 1577
title and shall refuse to issue a certificate of title unless the 1578
dealer or manufactured home broker or the applicant, in cases in 1579
which the certificate shall be obtained by the buyer, submits with 1580
the application payment of the tax levied by or pursuant to 1581
Chapters 5739. and 5741. of the Revised Code based on the 1582
purchaser's county of residence. Upon payment of the tax in 1583
accordance with division (E) of this section, the clerk shall 1584
issue a receipt prescribed by the registrar and agreed upon by the 1585
tax commissioner showing payment of the tax or a receipt issued by 1586
the commissioner showing the payment of the tax. When submitting 1587
payment of the tax to the clerk, a dealer shall retain any 1588
discount to which the dealer is entitled under section 5739.12 of 1589
the Revised Code. 1590

For receiving and disbursing such taxes paid to the clerk by 1591
a resident of the clerk's county, the clerk may retain a poundage 1592
fee of one and one one-hundredth per cent, ~~which~~ and the clerk 1593
~~shall be paid~~ pay the poundage fee into the certificate of title 1594
administration fund created by section 325.33 of the Revised Code. 1595
The clerk shall not retain a poundage fee from payments of taxes 1596
by persons who do not reside in the clerk's county. 1597

A clerk, however, may retain from the taxes paid to the clerk 1598
an amount equal to the poundage fees associated with certificates 1599
of title issued by other clerks of courts of common pleas to 1600
applicants who reside in the first clerk's county. The registrar, 1601
in consultation with the tax commissioner and the clerks of the 1602
courts of common pleas, shall develop a report from the automated 1603

title processing system that informs each clerk of the amount of
the poundage fees that the clerk is permitted to retain from those
taxes because of certificates of title issued by the clerks of
other counties to applicants who reside in the first clerk's
county.

In the case of casual sales of motor vehicles, as defined in
section 4517.01 of the Revised Code, the price for the purpose of
determining the tax shall be the purchase price on the assigned
certificate of title executed by the seller and filed with the
clerk by the buyer on a form to be prescribed by the registrar,
which shall be prima-facie evidence of the amount for the
determination of the tax.

(C)(1) If the transferor indicates on the certificate of
title that the odometer reflects mileage in excess of the designed
mechanical limit of the odometer, the clerk shall enter the phrase
"exceeds mechanical limits" following the mileage designation. If
the transferor indicates on the certificate of title that the
odometer reading is not the actual mileage, the clerk shall enter
the phrase "nonactual: warning - odometer discrepancy" following
the mileage designation. The clerk shall use reasonable care in
transferring the information supplied by the transferor, but is
not liable for any errors or omissions of the clerk or those of
the clerk's deputies in the performance of the clerk's duties
created by this chapter.

The registrar shall prescribe an affidavit in which the
transferor shall swear to the true selling price and, except as
provided in this division, the true odometer reading of the motor
vehicle. The registrar may prescribe an affidavit in which the
seller and buyer provide information pertaining to the odometer
reading of the motor vehicle in addition to that required by this
section, as such information may be required by the United States
secretary of transportation by rule prescribed under authority of

subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 1636
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(2) Division (C)(1) of this section does not require the 1638
giving of information concerning the odometer and odometer reading 1639
of a motor vehicle when ownership of a motor vehicle is being 1640
transferred as a result of a bequest, under the laws of intestate 1641
succession, to a ~~surviving spouse~~ survivor pursuant to section 1642
~~2106.17~~, 2106.18, 2131.12, or 4505.10 of the Revised Code, to a 1643
transfer-on-death beneficiary or beneficiaries pursuant to section 1644
2131.13 of the Revised Code, or in connection with the creation 1645
of a security interest. 1646

(D) When the transfer to the applicant was made in some other 1647
state or in interstate commerce, the clerk, except as provided in 1648
this section, shall refuse to issue any certificate of title 1649
unless the tax imposed by or pursuant to Chapter 5741. of the 1650
Revised Code based on the purchaser's county of residence has been 1651
paid as evidenced by a receipt issued by the tax commissioner, or 1652
unless the applicant submits with the application payment of the 1653
tax. Upon payment of the tax in accordance with division (E) of 1654
this section, the clerk shall issue a receipt prescribed by the 1655
registrar and agreed upon by the tax commissioner, showing payment 1656
of the tax. 1657

For receiving and disbursing such taxes paid to the clerk by 1658
a resident of the clerk's county, the clerk may retain a poundage 1659
fee of one and one one-hundredth per cent. The clerk shall not 1660
retain a poundage fee from payments of taxes by persons who do not 1661
reside in the clerk's county. 1662

A clerk, however, may retain from the taxes paid to the clerk 1663
an amount equal to the poundage fees associated with certificates 1664
of title issued by other clerks of courts of common pleas to 1665
applicants who reside in the first clerk's county. The registrar, 1666
in consultation with the tax commissioner and the clerks of the 1667

courts of common pleas, shall develop a report from the automated
title processing system that informs each clerk of the amount of
the poundage fees that the clerk is permitted to retain from those
taxes because of certificates of title issued by the clerks of
other counties to applicants who reside in the first clerk's
county.

When the vendor is not regularly engaged in the business of
selling motor vehicles, the vendor shall not be required to
purchase a vendor's license or make reports concerning those
sales.

(E) The clerk shall accept any payment of a tax in cash, or
by cashier's check, certified check, draft, money order, or teller
check issued by any insured financial institution payable to the
clerk and submitted with an application for a certificate of title
under division (B) or (D) of this section. The clerk also may
accept payment of the tax by corporate, business, or personal
check, credit card, electronic transfer or wire transfer, debit
card, or any other accepted form of payment made payable to the
clerk. The clerk may require bonds, guarantees, or letters of
credit to ensure the collection of corporate, business, or
personal checks. Any service fee charged by a third party to a
clerk for the use of any form of payment may be paid by the clerk
from the certificate of title administration fund created in
section 325.33 of the Revised Code, or may be assessed by the
clerk upon the applicant as an additional fee. Upon collection,
the additional fees shall be paid by the clerk into that
certificate of title administration fund.

The clerk shall make a good faith effort to collect any
payment of taxes due but not made because the payment was returned
or dishonored, but the clerk is not personally liable for the
payment of uncollected taxes or uncollected fees. The clerk shall
notify the tax commissioner of any such payment of taxes that is

due but not made and shall furnish ~~such~~ the information to the 1700
commissioner ~~as~~ that the commissioner requires. The clerk shall 1701
deduct the amount of taxes due but not paid from the clerk's 1702
periodic remittance of tax payments, in accordance with procedures 1703
agreed upon by the tax commissioner. The commissioner may collect 1704
taxes due by assessment in the manner provided in section 5739.13 1705
of the Revised Code. 1706

Any person who presents payment that is returned or 1707
dishonored for any reason is liable to the clerk for payment of a 1708
penalty over and above the amount of the taxes due. The clerk 1709
shall determine the amount of the penalty, ~~which~~ and the penalty 1710
shall be no greater than that amount necessary to compensate the 1711
clerk for banking charges, legal fees, or other expenses incurred 1712
by the clerk in collecting the returned or dishonored payment. The 1713
remedies and procedures provided in this section are in addition 1714
to any other available civil or criminal remedies. Subsequently 1715
collected penalties, poundage fees, and title fees, less any title 1716
fee due the state, from returned or dishonored payments collected 1717
by the clerk shall be paid into the certificate of title 1718
administration fund. Subsequently collected taxes, less poundage 1719
fees, shall be sent by the clerk to the treasurer of state at the 1720
next scheduled periodic remittance of tax payments, with 1721
information as the commissioner may require. The clerk may abate 1722
all or any part of any penalty assessed under this division. 1723

(F) In the following cases, the clerk shall accept for filing 1725
an application and shall issue a certificate of title without 1726
requiring payment or evidence of payment of the tax: 1727

(1) When the purchaser is this state or any of its political 1728
subdivisions, a church, or an organization whose purchases are 1729
exempted by section 5739.02 of the Revised Code; 1730

(2) When the transaction in this state is not a retail sale 1731

as defined by section 5739.01 of the Revised Code; 1732

(3) When the purchase is outside this state or in interstate 1733
commerce and the purpose of the purchaser is not to use, store, or 1734
consume within the meaning of section 5741.01 of the Revised Code; 1735
1736

(4) When the purchaser is the federal government; 1737

(5) When the motor vehicle was purchased outside this state 1738
for use outside this state; 1739

(6) When the motor vehicle is purchased by a nonresident of 1740
this state for immediate removal from this state, and will be 1741
permanently titled and registered in another state, as provided by 1742
division (B)(23) of section 5739.02 of the Revised Code, and upon 1743
presentation of a copy of the affidavit provided by that section, 1744
and a copy of the exemption certificate provided by section 1745
5739.03 of the Revised Code. 1746

The clerk shall forward all payments of taxes, less poundage 1747
fees, to the treasurer of state in a manner to be prescribed by 1748
the tax commissioner and shall furnish information to the 1749
commissioner as the commissioner requires. 1750

(G) An application, as prescribed by the registrar and agreed 1751
to by the tax commissioner, shall be filled out and sworn to by 1752
the buyer of a motor vehicle in a casual sale. The application 1753
shall contain the following notice in bold lettering: "WARNING TO 1754
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 1755
law to state the true selling price. A false statement is in 1756
violation of section 2921.13 of the Revised Code and is punishable 1757
by six months' imprisonment or a fine of up to one thousand 1758
dollars, or both. All transfers are audited by the department of 1759
taxation. The seller and buyer must provide any information 1760
requested by the department of taxation. The buyer may be assessed 1761
any additional tax found to be due." 1762

(H) For sales of manufactured homes or mobile homes occurring 1763
on or after January 1, 2000, the clerk shall accept for filing, 1764
pursuant to Chapter 5739. of the Revised Code, an application for 1765
a certificate of title for a manufactured home or mobile home 1766
without requiring payment of any tax pursuant to section 5739.02, 1767
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 1768
issued by the tax commissioner showing payment of the tax. For 1769
sales of manufactured homes or mobile homes occurring on or after 1770
January 1, 2000, the applicant shall pay to the clerk an 1771
additional fee of five dollars for each certificate of title 1772
issued by the clerk for a manufactured or mobile home pursuant to 1773
division (H) of section 4505.11 of the Revised Code and for each 1774
certificate of title issued upon transfer of ownership of the 1775
home. The clerk shall credit the fee to the county certificate of 1776
title administration fund, and the fee shall be used to pay the 1777
expenses of archiving ~~such~~ those certificates pursuant to division 1778
(A) of section 4505.08 and division (H)(3) of section 4505.11 of 1779
the Revised Code. The tax commissioner shall administer any tax on 1780
a manufactured or mobile home pursuant to Chapters 5739. and 5741. 1781
of the Revised Code. 1782

(I) Every clerk shall have the capability to transact by 1783
electronic means all procedures and transactions relating to the 1784
issuance of motor vehicle certificates of title that are described 1785
in the Revised Code as being accomplished by electronic means. 1786

Sec. 4505.10. (A) In the event of the transfer of ownership 1788
of a motor vehicle by operation of law, as upon inheritance, 1789
devise, bequest, order in bankruptcy, insolvency, replevin, or 1790
execution sale, a motor vehicle is sold to satisfy storage or 1791
repair charges, or repossession is had upon default in performance 1792
of the terms of a security agreement as provided in Chapter 1309. 1793
of the Revised Code and the secured party has notified the debtor 1794

As Reported by the Senate Judiciary--Civil Justice Committee

as required by division (B) of section 1309.611 of the Revised Code, a clerk of a court of common pleas, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to the motor vehicle, and upon payment of the fee prescribed in section 4505.09 of the Revised Code and presentation of an application for certificate of title, may issue to the applicant a certificate of title to the motor vehicle. Only an affidavit by the person or agent of the person to whom possession of the motor vehicle has passed, setting forth the facts entitling the person to the possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. If the applicant cannot produce that proof of ownership, the applicant may apply directly to the registrar of motor vehicles and submit the evidence the applicant has, and the registrar, if the registrar finds the evidence sufficient, then may authorize a clerk to issue a certificate of title. If, from the records in the office of the clerk involved, there appears to be any lien on the motor vehicle, the certificate of title shall contain a statement of the lien unless the application is accompanied by proper evidence of its extinction.

(B) A clerk shall transfer a decedent's interest in one or two automobiles to the surviving spouse of the decedent, as provided in section 2106.18 of the Revised Code, upon receipt of the title or titles. An affidavit executed by the surviving spouse shall be submitted to the clerk with the title or titles. The affidavit shall give the date of death of the decedent, shall state that each automobile for which the decedent's interest is to be so transferred is not disposed of by testamentary disposition, and shall provide an approximate value for each automobile

selected to be transferred by the surviving spouse. The affidavit 1828
shall also contain a description for each automobile for which the 1829
decedent's interest is to be so transferred. The transfer does not 1830
affect any liens upon any automobile for which the decedent's 1831
interest is so transferred. 1832

(C) Upon the death of one of the persons who have established 1833
joint ownership with right of survivorship under section ~~2106.17~~ 1834
2131.12 of the Revised Code in a motor vehicle, and upon 1835
presentation to a clerk of the title and the certificate of death 1836
of the decedent, the clerk shall transfer title to the motor 1837
vehicle to the survivor. The transfer does not affect any liens 1838
upon any motor vehicle so transferred. 1839

(D) Upon the death of the owner of a motor vehicle designated 1840
in beneficiary form under section 2131.13 of the Revised Code, 1841
upon application for a certificate of title by the 1842
transfer-on-death beneficiary or beneficiaries designated pursuant 1843
to that section, and upon presentation to the clerk of the 1844
certificate of title and the certificate of death of the decedent, 1845
the clerk shall transfer the motor vehicle and issue a certificate 1846
of title to the transfer-on-death beneficiary or beneficiaries. 1847
The transfer does not affect any liens upon the motor vehicle so 1848
transferred. 1849

Sec. 4549.08. No person shall operate or drive a motor 1850
vehicle upon the public roads and highways in this state if it 1851
displays a license plate or a distinctive number or identification 1852
mark that meets any of the following criteria: 1853

(A) Is fictitious; 1854

(B) Is a counterfeit or an unlawfully made copy of any 1855
distinctive number or identification mark; 1856

(C) Belongs to another motor vehicle, provided that this 1857

section does not apply to a motor vehicle that is operated on the
public roads and highways in this state when the motor vehicle
displays license plates that originally were issued for a motor
vehicle that previously was owned by the same person who owns the
motor vehicle that is operated on the public roads and highways in
this state, during the thirty-day period described in division
~~(C)~~(D) of section 4503.12 of the Revised Code.

A person who fails to comply with the transfer of
registration provisions of section 4503.12 of the Revised Code and
is charged with a violation of that section shall not be charged
with a violation of this section.

Sec. 4549.41. As used in sections 4549.41 to 4549.51 of the
Revised Code:

(A) "Person" includes an individual, corporation, government,
governmental subdivision or agency, business trust, estate, trust,
partnership, association, or cooperative or any other legal
entity, whether acting individually or by their agents, officers,
employees, or representatives.

(B) "Motor vehicle" means any vehicle driven or drawn by
mechanical power for use on the public streets, roads, or
highways.

(C) "Odometer" means an instrument for measuring and
recording the total distance ~~which~~ that a motor vehicle travels
while in operation, including any cable, line, or other part
necessary to make the instrument function properly. Odometer does
not include any auxiliary odometer designed to be reset by the
operator of a motor vehicle for the purpose of recording mileage
on trips.

(D) "Transfer" means to change ownership of a motor vehicle
by purchase, by gift, or, except as otherwise provided in this

division, by any other means. A "transfer" does not include a
change of ownership as a result of a bequest, under the laws of
intestate succession, as a result of a surviving spouse's actions
pursuant to section 2106.18 or 4505.10 of the Revised Code, as a
result of the operation of section ~~2106.17~~ 2131.12 or 2131.13 of
the Revised Code, or in connection with the creation of a security
interest.

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(E) "Transferor" means the person involved in a transfer, who
transfers ownership of a motor vehicle.

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(F) "Transferee" means the person involved in a transfer, to
whom the ownership of a motor vehicle is transferred.

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(G) "Service" means to repair or replace an odometer ~~which~~
that is not properly functioning.

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Section 2. That existing sections 1339.66, 1339.68, 1340.22,
1547.54, 1548.07, 1548.071, 1548.08, 1548.11, 2106.17, 2106.18,
2107.27, 2107.28, 2109.62, 2113.30, 2113.61, 2117.25, 4503.12,
4505.06, 4505.10, 4549.08, and 4549.41 of the Revised Code are
hereby repealed.

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Section 3. Section 1548.07 of the Revised Code is presented
in this act as a composite of the section as amended by both Sub.
H.B. 458 and Am. Sub. S.B. 182 of the 120th General Assembly.
Section 4505.10 of the Revised Code is presented in this act as a
composite of the section as amended by both Am. Sub. S.B. 74 and
Sub. S.B. 59 of the 124th General Assembly. The General Assembly,
applying the principle stated in division (B) of section 1.52 of
the Revised Code that amendments are to be harmonized if
reasonably capable of simultaneous operation, finds that each
composite is the resulting version of the section in effect prior
to the effective date of the section as presented in this act.

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