

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 108**

**SENATOR Jacobson**

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**A B I L L**

To amend sections 1701.95, 1707.01, 1901.18, 2101.31, 1  
2305.25, 2305.251, 2305.37, 2307.24, 2307.27, 2  
2307.30, 2307.60, 2307.61, 2313.46, 2315.23, 3  
2315.24, 2743.18, 2743.19, 2744.01, 2744.02, 4  
2744.03, 2744.05, 3123.17, 4112.02, 4507.07, 5  
4513.263, 4582.27, and 5111.81; to amend, for the 6  
purpose of adopting new section numbers as 7  
indicated in parentheses, sections 2307.24 8  
(2307.16), 2307.27 (2307.17), 2307.30 (2307.18), 9  
2315.07 (2315.05), 2315.08 (2315.06), 2315.18 10  
(2315.07), 2315.23 (2315.08), and 2315.24 11  
(2315.09); to revive and amend sections 109.36, 12  
2117.06, 2125.01, 2125.02, 2125.04, 2305.10, 13  
2305.16, 2305.27, 2305.38, 2307.31, 2307.32, 14  
2307.75, 2307.80, 2315.01, 2315.19, 2315.21, 15  
2501.02, 2744.06, 3722.08, 4112.14, 4113.52, 16  
4171.10, and 4399.18; to revive sections 163.17, 17  
723.01, 1343.03, 1775.14, 2305.01, 2305.11, 18  
2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 19  
2307.78, 2315.18, 2315.20, 2317.62, 2323.51, 20  
2744.04, 4112.99, 4909.42, 5591.36, and 5591.37; to 21  
repeal sections 109.36, 163.17, 723.01, 1343.03, 22  
1775.14, 1901.041, 1901.17, 1901.181, 1901.20, 23  
1905.032, 2117.06, 2125.01, 2125.02, 2125.04, 24  
2305.01, 2305.10, 2305.11, 2305.16, 2305.35, 25

2305.38, 2307.31, 2307.32, 2307.33, 2307.71, 26  
2307.72, 2307.73, 2307.75, 2307.78, 2307.80, 27  
2315.01, 2315.18, 2315.19, 2315.20, 2315.21, 28  
2317.62, 2323.51, 2501.02, 2744.04, 2744.06, 29  
3701.19, 3722.08, 4112.14, 4112.99, 4113.52, 30  
4171.10, 4399.18, 4909.42, 5591.36, and 5591.37, as 31  
they result from Am. Sub. H.B. 350 of the 121st 32  
General Assembly; to repeal sections 901.52, 33  
2101.163, 2151.542, 2303.202, 2305.011, 2305.012, 34  
2305.113, 2305.131, 2305.252, 2305.381, 2305.382, 35  
2307.31, 2307.42, 2307.43, 2307.48, 2307.791, 36  
2307.792, 2307.80, 2309.01, 2315.37, 2317.45, 37  
2317.46, 2323.54, and 2323.59; to repeal sections 38  
1901.262 and 1907.262, as enacted by Am. Sub. H.B. 39  
350; to suspend part of section 1707.01; and to 40  
suspend sections 1707.432, 1707.433, 1707.434, 41  
1707.435, 1707.436, 1707.437, and 1707.438 of the 42  
Revised Code and to amend Section 3 of Am. Sub. 43  
H.B. 438 of the 121st General Assembly and to 44  
repeal Sections 3, 4, 5, 6, 7, 8, 9, 13, and 16 of 45  
Am. Sub. H.B. 350 of the 121st General Assembly to 46  
repeal the Tort Reform Act, Am. Sub. H.B. 350 of 47  
the 121st General Assembly; to clarify the status 48  
of the law; to reorganize certain tort related 49  
provisions; and to revive prior law; to amend 50  
sections 2744.01 and 2744.03 of the Revised Code as 51  
scheduled to take effect on January 1, 2002, to 52  
continue the amendments of this act on and after 53  
that date; and to declare an emergency. 54  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** It is the intent of this act (1) to repeal the Tort Reform Act, Am. Sub. H.B. 350 of the 121st General Assembly, 146 Ohio Laws 3867, in conformity with the Supreme Court of Ohio's decision in *State, ex rel. Ohio Academy of Trial Lawyers, v. Sheward* (1999), 86 Ohio St.3d 451; (2) to clarify the status of the law; and (3) to revive the law as it existed prior to the Tort Reform Act.

**Section 2.01.** That sections 1701.95, 1707.01, 1901.18, 2101.31, 2305.25, 2305.251, 2305.37, 2307.24, 2307.27, 2307.30, 2307.60, 2307.61, 2313.46, 2315.23, 2315.24, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 2744.05, 3123.17, 4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 be amended; that sections 2307.24 (2307.16), 2307.27 (2307.17), 2307.30 (2307.18), 2315.07 (2315.05), 2315.08 (2315.06), 2315.18 (2315.07), 2315.23 (2315.08), and 2315.24 (2315.09) be amended for the purpose of adopting new section numbers as indicated in parentheses; that sections 109.36, 2117.06, 2125.01, 2125.02, 2125.04, 2305.10, 2305.16, 2305.27, 2305.38, 2307.31, 2307.32, 2307.75, 2307.80, 2315.01, 2315.19, 2315.21, 2501.02, 2744.06, 3722.08, 4112.14, 4113.52, 4171.10, and 4399.18 be revived and amended; and that sections 163.17, 723.01, 1343.03, 1775.14, 2305.01, 2305.11, 2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 2307.78, 2315.18, 2315.20, 2317.62, 2323.51, 2744.04, 4112.99, 4909.42, 5591.36, and 5591.37 of the Revised Code be revived, all to read as follows:

**Sec. 109.36.** As used in this section and sections 109.361 to 109.366 of the Revised Code:

(A) "Officer or employee" means any person who, at the time a cause of action against ~~him~~ the person arises, is serving in an elected or appointed office or position with the state or is employed by the state or any person that, at the time a cause of

action against the person, partnership, or corporation arises, is 86  
rendering medical, nursing, dental, podiatric, optometric, 87  
physical therapeutic, psychiatric, or psychological services 88  
pursuant to a personal services contract or purchased service 89  
contract with a department, agency, or institution of the state; 90  
or is rendering medical services to patients in a state 91  
institution operated by the department of mental health, is a 92  
member of the institution's staff, and is performing the services 93  
pursuant to an agreement between the state institution and a board 94  
of alcohol, drug addiction, and mental health services described 95  
in section 340.021 of the Revised Code. "Officer or employee" does 96  
not include any person elected, appointed, or employed by any 97  
political subdivision of the state. 98

(B) "State" means the state of Ohio, including but not 99  
limited to, the general assembly, the supreme court, the offices 100  
of all elected state officers, and all departments, boards, 101  
offices, commissions, agencies, institutions, and other 102  
instrumentalities of the state of Ohio. "State" does not include 103  
political subdivisions. 104

(C) "Political subdivisions" of the state means municipal 105  
corporations, townships, counties, school districts, and all other 106  
bodies corporate and politic responsible for governmental 107  
activities only in geographical areas smaller than that of the 108  
state. 109

(D) "Employer" means the general assembly, the supreme court, 110  
any office of an elected state officer, or any department, board, 111  
office, commission, agency, institution, or other instrumentality 112  
of the state of Ohio that employs or contracts with an officer or 113  
employee or to which an officer or employee is elected or 114  
appointed. 115

**Sec. 163.17.** Where the agency has the right to take 116

possession of the property before the verdict upon payment into 117  
court of a deposit, and a portion of said deposit may be withdrawn 118  
immediately by the owner, the amount of the verdict which exceeds 119  
the portion of the deposit withdrawable shall be subject to 120  
interest from the date of taking to the date of actual payment of 121  
the award. 122

Where the agency has no right to take possession of the 123  
property before the verdict, if the award is not paid to the owner 124  
or deposited in court within twenty-one days after journalization 125  
of the verdict, interest thereafter shall accrue, except that 126  
where the owner appeals, interest shall not accrue until the 127  
agency takes possession. 128

If the owner appeals and is granted a larger award, interest 129  
shall be paid on the additional amount awarded from the date of 130  
taking possession to the date of actual payment or date of deposit 131  
with immediate right of withdrawal. 132

If the agency wishes to appeal, it may require the deposit to 133  
remain with the court pending final disposition of the case 134  
provided it pays interest on the final award from date of taking 135  
possession to the date the money is actually paid or made 136  
available to the owner; provided, the owner may withdraw the 137  
entire award upon posting an appropriate refund bond set by the 138  
court; and provided, that where a building or other structure is 139  
taken, the court may, on application of the owner, permit the 140  
owner to withdraw a reasonable portion of the award allocable to 141  
the building without giving bond. 142

If the amount of any deposit actually withdrawn by the owner 143  
exceeds the final award from which no appeal is or can be taken, 144  
then the owner at the time of entry of judgment on such award 145  
shall refund at once to the court for the account of the agency 146  
the amount of such excess plus interest on such excess from the 147

date of withdrawal of such excess until the date of such refund, 148  
and upon the failure of the owner to make such refund, the agency 149  
shall be entitled to a money judgment against the owner. 150

Except for cases involving the department of transportation, 151  
interest as provided for in this section shall be at the rate of 152  
interest for judgments as set forth in section 1343.03 of the 153  
Revised Code. In a case involving the appropriation of property by 154  
the department of transportation, and the department is the sole 155  
public agency seeking to appropriate property in the case, 156  
interest as provided for in this section shall be at the per annum 157  
rate of either the interest rate as defined and established in 158  
division (B) of section 5703.47 of the Revised Code, or ten per 159  
cent, whichever is less. 160

**Sec. 723.01.** Municipal corporations shall have special power 161  
to regulate the use of the streets. Except as provided in section 162  
5501.49 of the Revised Code, the legislative authority of a 163  
municipal corporation shall have the care, supervision, and 164  
control of the public highways, streets, avenues, alleys, 165  
sidewalks, public grounds, bridges, aqueducts, and viaducts within 166  
the municipal corporation, and the municipal corporation shall 167  
cause them to be kept open, in repair, and free from nuisance. 168

**Sec. 1343.03.** (A) In cases other than those provided for in 169  
sections 1343.01 and 1343.02 of the Revised Code, when money 170  
becomes due and payable upon any bond, bill, note, or other 171  
instrument of writing, upon any book account, upon any settlement 172  
between parties, upon all verbal contracts entered into, and upon 173  
all judgments, decrees, and orders of any judicial tribunal for 174  
the payment of money arising out of tortious conduct or a contract 175  
or other transaction, the creditor is entitled to interest at the 176  
rate of ten per cent per annum, and no more, unless a written 177  
contract provides a different rate of interest in relation to the 178

money that becomes due and payable, in which case the creditor is 179  
entitled to interest at the rate provided in that contract. 180

(B) Except as provided in divisions (C) and (D) of this 181  
section, interest on a judgment, decree, or order for the payment 182  
of money rendered in a civil action based on tortious conduct, 183  
including, but not limited to a civil action based on tortious 184  
conduct that has been settled by agreement of the parties, shall 185  
be computed from the date the judgment, decree, or order is 186  
rendered to the date on which the money is paid. 187

(C) Interest on a judgment, decree, or order for the payment 188  
of money rendered in a civil action based on tortious conduct and 189  
not settled by agreement of the parties, shall be computed from 190  
the date the cause of action accrued to the date on which the 191  
money is paid if, upon motion of any party to the action, the 192  
court determines at a hearing held subsequent to the verdict or 193  
decision in the action that the party required to pay the money 194  
failed to make a good faith effort to settle the case and that the 195  
party to whom the money is to be paid did not fail to make a good 196  
faith effort to settle the case. 197

(D) Divisions (B) and (C) of this section do not apply to a 198  
judgment, decree, or order rendered in a civil action based on 199  
tortious conduct if a different period for computing interest on 200  
it is specified by law, or if it is rendered in an action against 201  
the state in the court of claims, or in an action under Chapter 202  
4123. of the Revised Code. 203

**Sec. 1701.95.** (A)(1) In addition to any other liabilities 204  
imposed by law upon directors of a corporation and except as 205  
provided in division (B) of this section, directors shall be 206  
jointly and severally liable to the corporation as provided in 207  
division (A)(2) of this section if they vote for or assent to any 208  
of the following: 209

(a) The payment of a dividend or distribution, the making of a distribution of assets to shareholders, or the purchase or redemption of the corporation's own shares, contrary in any such case to law or the articles;

(b) A distribution of assets to shareholders during the winding up of the affairs of the corporation, on dissolution or otherwise, without the payment of all known obligations of the corporation or without making adequate provision for their payment;

(c) The making of a loan, other than in the usual course of business, to an officer, director, or shareholder of the corporation, other than in either of the following cases:

(i) In the case of a savings and loan association or of a corporation engaged in banking or in the making of loans generally;

(ii) At the time of the making of the loan, a majority of the disinterested directors of the corporation voted for the loan and, taking into account the terms and provisions of the loan and other relevant factors, determined that the making of the loan could reasonably be expected to benefit the corporation.

(2)(a) In cases under division (A)(1)(a) of this section, directors shall be jointly and severally liable up to the amount of the dividend, distribution, or other payment, in excess of the amount that could have been paid or distributed without violation of law or the articles but not in excess of the amount that would inure to the benefit of the creditors of the corporation if it was insolvent at the time of the payment or distribution or there was reasonable ground to believe that by that action it would be rendered insolvent, plus the amount that was paid or distributed to holders of shares of any class in violation of the rights of holders of shares of any other class.

(b) In cases under division (A)(1)(b) of this section, 241  
directors shall be jointly and severally liable to the extent that 242  
the obligations of the corporation that are not otherwise barred 243  
by statute are not paid or for the payment of which adequate 244  
provision has not been made. 245

(c) In cases under division (A)(1)(c) of this section, 246  
directors shall be jointly and severally liable for the amount of 247  
the loan with interest on it at the rate specified in ~~division (A)~~ 248  
~~of~~ section 1343.03 of the Revised Code until the amount has been 249  
paid. 250

(B)(1) A director is not liable under division (A)(1)(a) or 251  
(b) of this section if, in determining the amount available for 252  
any dividend, purchase, redemption, or distribution to 253  
shareholders, the director in good faith relied on a financial 254  
statement of the corporation prepared by an officer or employee of 255  
the corporation in charge of its accounts or certified by a public 256  
accountant or firm of public accountants, the director in good 257  
faith considered the assets to be of their book value, or the 258  
director followed what the director believed to be sound 259  
accounting and business practice. 260

(2) A director is not liable under division (A)(1)(c) of this 261  
section for making any loan to, or guaranteeing any loan to or 262  
other obligation of, an employee stock ownership plan, as defined 263  
in section 4975(e)(7) of the Internal Revenue Code. 264

(C) A director who is present at a meeting of the directors 265  
or a committee of the directors at which action on any matter is 266  
authorized or taken and who has not voted for or against the 267  
action shall be presumed to have voted for the action unless that 268  
director's written dissent from the action is filed, either during 269  
the meeting or within a reasonable time after the adjournment of 270  
the meeting, with the person acting as secretary of the meeting or 271  
with the secretary of the corporation. 272

(D) A shareholder who knowingly receives any dividend, 273  
distribution, or payment made contrary to law or the articles 274  
shall be liable to the corporation for the amount received by that 275  
shareholder that is in excess of the amount that could have been 276  
paid or distributed without violation of law or the articles. 277

(E) A director against whom a claim is asserted under or 278  
pursuant to this section and who is held liable on the claim shall 279  
be entitled to contribution, on equitable principles, from other 280  
directors who also are liable. In addition, any director against 281  
whom a claim is asserted under or pursuant to this section or who 282  
is held liable shall have a right of contribution from the 283  
shareholders who knowingly received any dividend, distribution, or 284  
payment made contrary to law or the articles, and those 285  
shareholders as among themselves also shall be entitled to 286  
contribution in proportion to the amounts received by them 287  
respectively. 288

(F) No action shall be brought by or on behalf of a 289  
corporation upon a any cause of action arising under division 290  
(A)(1)(a) or (b) of this section at any time after two years from 291  
the day on which the violation occurs. 292

(G) Nothing contained in this section shall preclude a 293  
creditor whose claim is unpaid from exercising the rights that 294  
that creditor otherwise would have by law to enforce that 295  
creditor's claim against assets of the corporation paid or 296  
distributed to shareholders. 297

(H) The failure of a corporation to observe corporate 298  
formalities relating to meetings of directors or shareholders in 299  
connection with the management of the corporation's affairs shall 300  
not be considered a factor tending to establish that the 301  
shareholders have personal liability for corporate obligations. 302

**Sec. 1707.01.** As used in this chapter: 303

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, certificates or written instruments in or under profit-sharing or participation agreements or in or under oil, gas, or mining leases, or certificates or written instruments of any interest in or under the same, receipts evidencing preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, certificates evidencing an interest in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation

of a sale, a solicitation of an offer to buy, a subscription, or 336  
an offer to sell, directly or indirectly, by agent, circular, 337  
pamphlet, advertisement, or otherwise. 338

(2) "Sell" means any act by which a sale is made. 339

(3) The use of advertisements, circulars, or pamphlets in 340  
connection with the sale of securities in this state exclusively 341  
to the purchasers specified in division (D) of section 1707.03 of 342  
the Revised Code is not a sale when the advertisements, circulars, 343  
and pamphlets describing and offering those securities bear a 344  
readily legible legend in substance as follows: "This offer is 345  
made on behalf of dealers licensed under sections 1707.01 to 346  
1707.45 of the Revised Code, and is confined in this state 347  
exclusively to institutional investors and licensed dealers." 348

(4) The offering of securities by any person in conjunction 349  
with a licensed dealer by use of advertisement, circular, or 350  
pamphlet is not a sale if that person does not otherwise attempt 351  
to sell securities in this state. 352

(5) Any security given with, or as a bonus on account of, any 353  
purchase of securities is conclusively presumed to constitute a 354  
part of the subject of that purchase and has been "sold." 355

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person 356  
acting in a representative capacity, includes sale on behalf of 357  
such party by an agent, including a licensed dealer or 358  
salesperson. 359

(D) "Person," except as otherwise provided in this chapter, 360  
means a natural person, firm, partnership, limited partnership, 361  
partnership association, syndicate, joint-stock company, 362  
unincorporated association, trust or trustee except where the 363  
trust was created or the trustee designated by law or judicial 364  
authority or by a will, and a corporation or limited liability 365  
company organized under the laws of any state, any foreign 366

government, or any political subdivision of a state or foreign 367  
government. 368

(E)(1) "Dealer," except as otherwise provided in this 369  
chapter, means every person, other than a salesperson, who engages 370  
or professes to engage, in this state, for either all or part of 371  
the person's time, directly or indirectly, either in the business 372  
of the sale of securities for the person's own account, or in the 373  
business of the purchase or sale of securities for the account of 374  
others in the reasonable expectation of receiving a commission, 375  
fee, or other remuneration as a result of engaging in the purchase 376  
and sale of securities. "Dealer" does not mean any of the 377  
following: 378

(a) Any issuer, including any officer, director, employee, or 379  
trustee of, or member or manager of, or partner in, or any general 380  
partner of, any issuer, that sells, offers for sale, or does any 381  
act in furtherance of the sale of a security that represents an 382  
economic interest in that issuer, provided no commission, fee, or 383  
other similar remuneration is paid to or received by the issuer 384  
for the sale; 385

(b) Any licensed attorney, public accountant, or firm of such 386  
attorneys or accountants, whose activities are incidental to the 387  
practice of the attorney's, accountant's, or firm's profession; 388  
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(c) Any person that, for the account of others, engages in 390  
the purchase or sale of securities that are issued and outstanding 391  
before such purchase and sale, if a majority or more of the equity 392  
interest of an issuer is sold in that transaction, and if, in the 393  
case of a corporation, the securities sold in that transaction 394  
represent a majority or more of the voting power of the 395  
corporation in the election of directors; 396

(d) Any person that brings an issuer together with a 397

potential investor and whose compensation is not directly or 398  
indirectly based on the sale of any securities by the issuer to 399  
the investor; 400

(e) Any bank, savings and loan association, savings bank, or 401  
credit union chartered under the laws of the United States or any 402  
state of the United States, provided that all transactions are 403  
consummated by or through a person licensed pursuant to section 404  
1707.14 of the Revised Code; 405

(f) Any person that the division of securities by rule 406  
exempts from the definition of "dealer" under division (E)(1) of 407  
this section. 408

(2) "Licensed dealer" means a dealer licensed under this 409  
chapter. 410

(F)(1) "Salesman" or "salesperson" means every natural 411  
person, other than a dealer, who is employed, authorized, or 412  
appointed by a dealer to sell securities within this state. 413

(2) The general partners of a partnership, and the executive 414  
officers of a corporation or unincorporated association, licensed 415  
as a dealer are not salespersons within the meaning of this 416  
definition, nor are such clerical or other employees of an issuer 417  
or dealer as are employed for work to which the sale of securities 418  
is secondary and incidental; but the division of securities may 419  
require a license from any such partner, executive officer, or 420  
employee if it determines that protection of the public 421  
necessitates the licensing. 422

(3) "Licensed salesperson" means a salesperson licensed under 423  
this chapter. 424

(G) "Issuer" means every person who has issued, proposes to 425  
issue, or issues any security. 426

(H) "Director" means each director or trustee of a 427

corporation, each trustee of a trust, each general partner of a  
partnership, except a partnership association, each manager of a  
partnership association, and any person vested with managerial or  
directory power over an issuer not having a board of directors or  
trustees.

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(I) "Incorporator" means any incorporator of a corporation  
and any organizer of, or any person participating, other than in a  
representative or professional capacity, in the organization of an  
unincorporated issuer.

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(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent  
practices," or "fraudulent transactions" means anything recognized  
on or after July 22, 1929, as such in courts of law or equity; any  
device, scheme, or artifice to defraud or to obtain money or  
property by means of any false pretense, representation, or  
promise; any fictitious or pretended purchase or sale of  
securities; and any act, practice, transaction, or course of  
business relating to the purchase or sale of securities that is  
fraudulent or that has operated or would operate as a fraud upon  
the seller or purchaser.

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(K) Except as otherwise specifically provided, whenever any  
classification or computation is based upon "par value," as  
applied to securities without par value, the average of the  
aggregate consideration received or to be received by the issuer  
for each class of those securities shall be used as the basis for  
that classification or computation.

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(L)(1) "Intangible property" means patents, copyrights,  
secret processes, formulas, services, good will, promotion and  
organization fees and expenses, trademarks, trade brands, trade  
names, licenses, franchises, any other assets treated as  
intangible according to generally accepted accounting principles,  
and securities, accounts receivable, or contract rights having no  
readily determinable value.

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(2) "Tangible property" means all property other than 460  
intangible property and includes securities, accounts receivable, 461  
and contract rights, when the securities, accounts receivable, or 462  
contract rights have a readily determinable value. 463

(M) "Public utilities" means those utilities defined in 464  
sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised 465  
Code; in the case of a foreign corporation, it means those 466  
utilities defined as public utilities by the laws of its domicile; 467  
and in the case of any other foreign issuer, it means those 468  
utilities defined as public utilities by the laws of the situs of 469  
its principal place of business. The term always includes 470  
railroads whether or not they are so defined as public utilities. 471

(N) "State" means any state of the United States, any 472  
territory or possession of the United States, the District of 473  
Columbia, and any province of Canada. 474

(O) "Bank" means any bank, trust company, savings and loan 475  
association, savings bank, or credit union that is incorporated or 476  
organized under the laws of the United States, any state of the 477  
United States, Canada, or any province of Canada and that is 478  
subject to regulation or supervision by that country, state, or 479  
province. 480

(P) "Include," when used in a definition, does not exclude 481  
other things or persons otherwise within the meaning of the term 482  
defined. 483

(Q)(1) "Registration by description" means that the 484  
requirements of section 1707.08 of the Revised Code have been 485  
complied with. 486

(2) "Registration by qualification" means that the 487  
requirements of sections 1707.09 and 1707.11 of the Revised Code 488  
have been complied with. 489

(3) "Registration by coordination" means that there has been 490

compliance with section 1707.091 of the Revised Code. Reference in 491  
this chapter to registration by qualification also shall be deemed 492  
to include registration by coordination unless the context 493  
otherwise indicates. 494

(R) "Intoxicating liquor" includes all liquids and compounds 495  
that contain more than three and two-tenths per cent of alcohol by 496  
weight and are fit for use for beverage purposes. 497

(S) "Institutional investor" means any corporation, bank, 498  
insurance company, pension fund or pension fund trust, employees' 499  
profit-sharing fund or employees' profit-sharing trust, any 500  
association engaged, as a substantial part of its business or 501  
operations, in purchasing or holding securities, or any trust in 502  
respect of which a bank is trustee or cotrustee. "Institutional 503  
investor" does not include any business entity formed for the 504  
primary purpose of evading sections 1707.01 to 1707.45 of the 505  
Revised Code. 506

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, 507  
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 508  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, 509  
"Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, 510  
and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a 511  
mean the federal statutes of those names as amended before or 512  
after March 18, 1999. 513

(U) "Securities and exchange commission" means the securities 514  
and exchange commission established by the Securities Exchange Act 515  
of 1934. 516

(V)(1) "Control bid" means the purchase of or offer to 517  
purchase any equity security of a subject company from a resident 518  
of this state if either of the following applies: 519

(a) After the purchase of that security, the offeror would be 520  
directly or indirectly the beneficial owner of more than ten per 521

cent of any class of the issued and outstanding equity securities 522  
of the issuer. 523

(b) The offeror is the subject company, there is a pending 524  
control bid by a person other than the issuer, and the number of 525  
the issued and outstanding shares of the subject company would be 526  
reduced by more than ten per cent. 527

(2) For purposes of division (V)(1) of this section, "control 528  
bid" does not include any of the following: 529

(a) A bid made by a dealer for the dealer's own account in 530  
the ordinary course of business of buying and selling securities; 531

(b) An offer to acquire any equity security solely in 532  
exchange for any other security, or the acquisition of any equity 533  
security pursuant to an offer, for the sole account of the 534  
offeror, in good faith and not for the purpose of avoiding the 535  
provisions of this chapter, and not involving any public offering 536  
of the other security within the meaning of Section 4 of Title I 537  
of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), 538  
as amended; 539

(c) Any other offer to acquire any equity security, or the 540  
acquisition of any equity security pursuant to an offer, for the 541  
sole account of the offeror, from not more than fifty persons, in 542  
good faith and not for the purpose of avoiding the provisions of 543  
this chapter. 544

(W) "Offeror" means a person who makes, or in any way 545  
participates or aids in making, a control bid and includes persons 546  
acting jointly or in concert, or who intend to exercise jointly or 547  
in concert any voting rights attached to the securities for which 548  
the control bid is made and also includes any subject company 549  
making a control bid for its own securities. 550

(X)(1) "Investment adviser" means any person who, for 551  
compensation, engages in the business of advising others, either 552

directly or through publications or writings, as to the value of 553  
securities or as to the advisability of investing in, purchasing, 554  
or selling securities, or who, for compensation and as a part of 555  
regular business, issues or promulgates analyses or reports 556  
concerning securities. 557

(2) "Investment adviser" does not mean any of the following: 558

(a) Any attorney, accountant, engineer, or teacher, whose 559  
performance of investment advisory services described in division 560  
(X)(1) of this section is solely incidental to the practice of the 561  
attorney's, accountant's, engineer's, or teacher's profession; 562

(b) A publisher of any bona fide newspaper, news magazine, or 563  
business or financial publication of general and regular 564  
circulation; 565

(c) A person who acts solely as an investment adviser 566  
representative; 567

(d) A bank holding company, as defined in the "Bank Holding 568  
Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an 569  
investment company; 570

(e) A bank, or any receiver, conservator, or other 571  
liquidating agent of a bank; 572

(f) Any licensed dealer or licensed salesperson whose 573  
performance of investment advisory services described in division 574  
(X)(1) of this section is solely incidental to the conduct of the 575  
dealer's or salesperson's business as a licensed dealer or 576  
licensed salesperson and who receives no special compensation for 577  
the services; 578

(g) Any person, the advice, analyses, or reports of which do 579  
not relate to securities other than securities that are direct 580  
obligations of, or obligations guaranteed as to principal or 581  
interest by, the United States, or securities issued or guaranteed 582

by corporations in which the United States has a direct or 583  
indirect interest, and that have been designated by the secretary 584  
of the treasury as exempt securities as defined in the "Securities 585  
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c; 586

(h) Any person that is excluded from the definition of 587  
investment adviser pursuant to section 202(a)(11)(A) to (E) of the 588  
"Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that 589  
has received an order from the securities and exchange commission 590  
under section 202(a)(11)(F) of the "Investment Advisers Act of 591  
1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not 592  
within the intent of section 202(a)(11) of the Investment Advisers 593  
Act of 1940. 594

(i) Any other person that the division designates by rule, if 595  
the division finds that the designation is necessary or 596  
appropriate in the public interest or for the protection of 597  
investors or clients and consistent with the purposes fairly 598  
intended by the policy and provisions of this chapter. 599

(Y)(1) "Subject company" means an issuer that satisfies both 600  
of the following: 601

(a) Its principal place of business or its principal 602  
executive office is located in this state, or it owns or controls 603  
assets located within this state that have a fair market value of 604  
at least one million dollars. 605

(b) More than ten per cent of its beneficial or record equity 606  
security holders are resident in this state, more than ten per 607  
cent of its equity securities are owned beneficially or of record 608  
by residents in this state, or more than one thousand of its 609  
beneficial or record equity security holders are resident in this 610  
state. 611

(2) The division of securities may adopt rules to establish 612  
more specific application of the provisions set forth in division 613

(Y)(1) of this section. Notwithstanding the provisions set forth  
in division (Y)(1) of this section and any rules adopted under  
this division, the division, by rule or in an adjudicatory  
proceeding, may make a determination that an issuer does not  
constitute a "subject company" under division (Y)(1) of this  
section if appropriate review of control bids involving the issuer  
is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or  
indirectly through any contract, arrangement, understanding, or  
relationship has or shares, or otherwise has or shares, the power  
to vote or direct the voting of a security or the power to dispose  
of, or direct the disposition of, the security. "Beneficial  
ownership" includes the right, exercisable within sixty days, to  
acquire any security through the exercise of any option, warrant,  
or right, the conversion of any convertible security, or  
otherwise. Any security subject to any such option, warrant,  
right, or conversion privilege held by any person shall be deemed  
to be outstanding for the purpose of computing the percentage of  
outstanding securities of the class owned by that person, but  
shall not be deemed to be outstanding for the purpose of computing  
the percentage of the class owned by any other person. A person  
shall be deemed the beneficial owner of any security beneficially  
owned by any relative or spouse or relative of the spouse residing  
in the home of that person, any trust or estate in which that  
person owns ten per cent or more of the total beneficial interest  
or serves as trustee or executor, any corporation or entity in  
which that person owns ten per cent or more of the equity, and any  
affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any  
security that an offeror acquires or offers to acquire in  
connection with a control bid.

(BB) "Equity security" means any share or similar security,

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or any security convertible into any such security, or carrying  
any warrant or right to subscribe to or purchase any such  
security, or any such warrant or right, or any other security  
that, for the protection of security holders, is treated as an  
equity security pursuant to rules of the division of securities.

~~(CC) "Investment company" has the same meaning as in section  
3(A) of the "Investment Company Act of 1940," 54 Stat. 789, 15  
U.S.C. 80a-1 to 80a-52.~~

~~(DD) "Penny stock" has the same meaning as in section  
3(A)(51) of the "Securities Exchange Act of 1934," 48 Stat. 881,  
15 U.S.C. 78a-78jj, and the rules, regulations, and orders issued  
pursuant to that section.~~

~~(EE) "Going concern transaction" has the same meaning given  
that term under the rules or regulations on the securities and  
exchange commission issued pursuant to section 13(c) of the  
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.  
78a-78jj.~~

~~(FF) "Person acting on behalf of an issuer" means an officer,  
director, or employee of an issuer.~~

~~(GG) "Blank check company," "roll-up transaction," "executive  
officer of an entity," and "direct participation program" have the  
same meanings given those terms by rule or regulation of the  
securities and exchange commission.~~

~~(HH) "Forward-looking statement" means any of the following:~~

~~(1) A statement containing a projection of revenues, income  
including income loss, earnings per share including earnings loss  
per share, capital expenditures, dividends, capital structure, or  
other financial items;~~

~~(2) A statement of the plans and objectives of the management  
of the issuer for future operations, including plans or objectives~~

relating to the products or services of the issuer; 676

~~(3) A statement of future economic performance, including any statement of that nature contained in a discussion and analysis of financial conditions by the management or in the results of operations included pursuant to the rules and regulations of the securities and exchange commission;~~ 677  
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~~(4) Any disclosed statement of the assumptions underlying or relating to a statement described in division (B)(1), (2), or (3) of section 1707.437 of the Revised Code;~~ 682  
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~~(5) Any report issued by an outside reviewer retained by an issuer to the extent that the report relates to a forward-looking statement made by the issuer;~~ 685  
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~~(6) A statement containing a projection or estimate of any other items that may be specified by rule or regulation of the securities and exchange commission.~~ 688  
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~~(II)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division ~~(KK)~~(EE) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division ~~(KK)~~(EE) of this section. "Investment adviser representative" does not mean any of the following:~~ 691  
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~~(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;~~ 699  
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~~(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;~~ 702  
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(c) Any other person that the division designates by rule, if 707  
the division finds that the designation is necessary or 708  
appropriate in the public interest or for the protection of 709  
investors or clients and is consistent with the provisions fairly 710  
intended by the policy and provisions of this chapter. 711

(2) For the purpose of the calculation of clients in division 712  
~~(HH)~~(CC)(1) of this section, a natural person and the following 713  
persons are deemed a single client: Any minor child of the natural 714  
person; any relative, spouse, or relative of the spouse of the 715  
natural person who has the same principal residence as the natural 716  
person; all accounts of which the natural person or the persons 717  
referred to in division ~~(HH)~~(CC)(2) of this section are the only 718  
primary beneficiaries; and all trusts of which the natural person 719  
or persons referred to in division ~~(HH)~~(CC)(2) of this section are 720  
the only primary beneficiaries. Persons who are not residents of 721  
the United States need not be included in the calculation of 722  
clients under division ~~(HH)~~(CC)(1) of this section. 723

(3) If subsequent to March 18, 1999, amendments are enacted 724  
or adopted defining "investment adviser representative" for 725  
purposes of the Investment Advisers Act of 1940 or additional 726  
rules or regulations are promulgated by the securities and 727  
exchange commission regarding the definition of "investment 728  
adviser representative" for purposes of the Investment Advisers 729  
Act of 1940, the division of securities shall, by rule, adopt the 730  
substance of the amendments, rules, or regulations, unless the 731  
division finds that the amendments, rules, or regulations are not 732  
necessary for the protection of investors or in the public 733  
interest. 734

~~(JJ)~~(DD) "Supervised person" means a natural person who is 735  
any of the following: 736

(1) A partner, officer, or director of an investment adviser, 737  
or other person occupying a similar status or performing similar 738

functions with respect to an investment adviser; 739

(2) An employee of an investment adviser; 740

(3) A person who provides investment advisory services 741  
described in division (X)(1) of this section on behalf of the 742  
investment adviser and is subject to the supervision and control 743  
of the investment adviser. 744

~~(KK)~~(EE) "Excepted person" means a natural person to whom any 745  
of the following applies: 746

(1) Immediately after entering into the investment advisory 747  
contract with the investment adviser, the person has at least 748  
seven hundred fifty thousand dollars under the management of the 749  
investment adviser. 750

(2) The investment adviser reasonably believes either of the 751  
following at the time the investment advisory contract is entered 752  
into with the person: 753

(a) The person has a net worth, together with assets held 754  
jointly with a spouse, of more than one million five hundred 755  
thousand dollars. 756

(b) The person is a qualified purchaser as defined in 757  
division ~~(LL)~~(FF) of this section. 758

(3) Immediately prior to entering into an investment advisory 759  
contract with the investment adviser, the person is either of the 760  
following: 761

(a) An executive officer, director, trustee, general partner, 762  
or person serving in a similar capacity, of the investment 763  
adviser; 764

(b) An employee of the investment adviser, other than an 765  
employee performing solely clerical, secretarial, or 766  
administrative functions or duties for the investment adviser, 767  
which employee, in connection with the employee's regular 768

functions or duties, participates in the investment activities of 769  
the investment adviser, provided that, for at least twelve months, 770  
the employee has been performing such nonclerical, nonsecretarial, 771  
or nonadministrative functions or duties for or on behalf of the 772  
investment adviser or performing substantially similar functions 773  
or duties for or on behalf of another company. 774

If subsequent to March 18, 1999, amendments are enacted or 775  
adopted defining "excepted person" for purposes of the Investment 776  
Advisers Act of 1940 or additional rules or regulations are 777  
promulgated by the securities and exchange commission regarding 778  
the definition of "excepted person" for purposes of the Investment 779  
Advisers Act of 1940, the division of securities shall, by rule, 780  
adopt the substance of the amendments, rules, or regulations, 781  
unless the division finds that the amendments, rules, or 782  
regulations are not necessary for the protection of investors or 783  
in the public interest. 784

~~(LL)~~(FF)(1) "Qualified purchaser" means either of the 785  
following: 786

(a) A natural person who owns not less than five million 787  
dollars in investments as defined by rule by the division of 788  
securities; 789

(b) A natural person, acting for the person's own account or 790  
accounts of other qualified purchasers, who in the aggregate owns 791  
and invests on a discretionary basis, not less than twenty-five 792  
million dollars in investments as defined by rule by the division 793  
of securities. 794

(2) If subsequent to March 18, 1999, amendments are enacted 795  
or adopted defining "qualified purchaser" for purposes of the 796  
Investment Advisers Act of 1940 or additional rules or regulations 797  
are promulgated by the securities and exchange commission 798  
regarding the definition of "qualified purchaser" for purposes of 799

the Investment Advisers Act of 1940, the division of securities 800  
shall, by rule, adopt the amendments, rules, or regulations, 801  
unless the division finds that the amendments, rules, or 802  
regulations are not necessary for the protection of investors or 803  
in the public interest. 804

~~(MM)~~(GG)(1) "Purchase" has the full meaning of "purchase" as 805  
applied by or accepted in courts of law or equity and includes 806  
every acquisition of, or attempt to acquire, a security or an 807  
interest in a security. "Purchase" also includes a contract to 808  
purchase, an exchange, an attempt to purchase, an option to 809  
purchase, a solicitation of a purchase, a solicitation of an offer 810  
to sell, a subscription, or an offer to purchase, directly or 811  
indirectly, by agent, circular, pamphlet, advertisement, or 812  
otherwise. 813

(2) "Purchase" means any act by which a purchase is made. 814

(3) Any security given with, or as a bonus on account of, any 815  
purchase of securities is conclusively presumed to constitute a 816  
part of the subject of that purchase. 817

~~(NN)~~(HH) "Life settlement interest" means the entire interest 818  
or any fractional interest in an insurance policy or certificate 819  
of insurance, or in an insurance benefit under such a policy or 820  
certificate, that is the subject of a life settlement contract. 821

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For purposes of this division, "life settlement contract" 823  
means an agreement for the purchase, sale, assignment, transfer, 824  
devise, or bequest of any portion of the death benefit or 825  
ownership of any life insurance policy or contract, in return for 826  
consideration or any other thing of value that is less than the 827  
expected death benefit of the life insurance policy or contract. 828  
"Life settlement contract" includes a viatical settlement contract 829  
as defined in section 3916.01 of the Revised Code, but does not 830

include any of the following:	831
(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;	832 833 834
(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;	835 836
(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;	837 838
(4) Any agreement between an insurer and a reinsurer;	839
(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;	840 841 842 843
(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.	844 845 846 847
<b>Sec. 1775.14.</b> (A) Subject to section 1339.65 of the Revised Code and except as provided in division (B) of this section, all partners are liable as follows:	848 849 850
(1) Jointly and severally for everything chargeable to the partnership under sections 1775.12 and 1775.13 of the Revised Code. This joint and several liability is not subject to division (D) of section 2315.19 of the Revised Code with respect to a negligence claim that otherwise is subject to that section.	851 852 853 854 855
(2) Jointly for all other debts and obligations of the partnership, but any partner may enter into a separate obligation to perform a partnership contract.	856 857 858
(B) Subject to divisions (C)(1) and (2) of this section or as	859

otherwise provided in a written agreement between the partners of  
a registered limited liability partnership, a partner in a  
registered limited liability partnership is not liable, directly  
or indirectly, by way of indemnification, contribution,  
assessment, or otherwise, for debts, obligations, or other  
liabilities of any kind of, or chargeable to, the partnership or  
another partner or partners arising from negligence or from  
wrongful acts, errors, omissions, or misconduct, whether or not  
intentional or characterized as tort, contract, or otherwise,  
committed or occurring while the partnership is a registered  
limited liability partnership and committed or occurring in the  
course of the partnership business by another partner or an  
employee, agent, or representative of the partnership.

(C)(1) Division (B) of this section does not affect the  
liability of a partner in a registered limited liability  
partnership for that partner's own negligence, wrongful acts,  
errors, omissions, or misconduct, including that partner's own  
negligence, wrongful acts, errors, omissions, or misconduct in  
directly supervising any other partner or any employee, agent, or  
representative of the partnership.

(2) Division (B) of this section shall not affect the  
liability of a partner for liabilities imposed by Chapters 5735.,  
5739., 5743., and 5747. and section 3734.908 of the Revised Code.

(D) A partner in a registered limited liability partnership  
is not a proper party to an action or proceeding by or against a  
registered limited liability partnership with respect to any debt,  
obligation, or other liability of any kind described in division  
(B) of this section, unless the partner is liable under divisions  
(C)(1) and (2) of this section.

**Sec. 1901.18.** (A) Except as otherwise provided in this  
division or section 1901.181 of the Revised Code, subject to the

monetary jurisdiction of municipal courts as set forth in section	891
1901.17 of the Revised Code, a municipal court has original	892
jurisdiction within its territory in all of the following actions	893
or proceedings and to perform all of the following functions:	894
(1) In any civil action, of whatever nature or remedy, of	895
which judges of county courts have jurisdiction;	896
(2) In any action or proceeding at law for the recovery of	897
money or personal property of which the court of common pleas has	898
jurisdiction;	899
(3) In any action at law based on contract, to determine,	900
preserve, and enforce all legal and equitable rights involved in	901
the contract, to decree an accounting, reformation, or	902
cancellation of the contract, and to hear and determine all legal	903
and equitable remedies necessary or proper for a complete	904
determination of the rights of the parties to the contract;	905
(4) In any action or proceeding for the sale of personal	906
property under chattel mortgage, lien, encumbrance, or other	907
charge, for the foreclosure and marshalling of liens on personal	908
property of that nature, and for the rendering of personal	909
judgment in the action or proceeding;	910
(5) In any action or proceeding to enforce the collection of	911
its own judgments or the judgments rendered by any court within	912
the territory to which the municipal court has succeeded, and to	913
subject the interest of a judgment debtor in personal property to	914
satisfy judgments enforceable by the municipal court;	915
(6) In any action or proceeding in the nature of	916
interpleader;	917
(7) In any action of replevin;	918
(8) In any action of forcible entry and detainer;	919
(9) In any action concerning the issuance and enforcement of	920

temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by courts of another state, as defined in section 2919.27 of the Revised Code;

(10) If the municipal court has a housing or environmental division, in any action over which the division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division ~~(B)~~(B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction;

(11) In any action brought pursuant to division (I) of section 3733.11 of the Revised Code, if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court;

(12) In any civil action as described in division (B)(1) of section 3767.41 of the Revised Code that relates to a public nuisance, and, to the extent any provision of this chapter conflicts or is inconsistent with a provision of that section, the provision of that section shall control in the civil action.

(B) The Cleveland municipal court also shall have jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions:

(1) In all actions and proceedings for the sale of real property under lien of a judgment of the municipal court or a lien for machinery, material, or fuel furnished or labor performed, irrespective of amount, and, in those actions and proceedings, the court may proceed to foreclose and marshal all liens and all vested or contingent rights, to appoint a receiver, and to render personal judgment irrespective of amount in favor of any party.

(2) In all actions for the foreclosure of a mortgage on real

property given to secure the payment of money or the enforcement 952  
of a specific lien for money or other encumbrance or charge on 953  
real property, when the amount claimed by the plaintiff does not 954  
exceed fifteen thousand dollars and the real property is situated 955  
within the territory, and, in those actions, the court may proceed 956  
to foreclose all liens and all vested and contingent rights and 957  
may proceed to render judgments and make findings and orders 958  
between the parties in the same manner and to the same extent as 959  
in similar actions in the court of common pleas. 960

(3) In all actions for the recovery of real property situated 961  
within the territory to the same extent as courts of common pleas 962  
have jurisdiction; 963

(4) In all actions for injunction to prevent or terminate 964  
violations of the ordinances and regulations of the city of 965  
Cleveland enacted or promulgated under the police power of the 966  
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 967  
Constitution, over which the court of common pleas has or may have 968  
jurisdiction, and, in those actions, the court may proceed to 969  
render judgments and make findings and orders in the same manner 970  
and to the same extent as in similar actions in the court of 971  
common pleas. 972

**Sec. 2101.31.** All questions of fact shall be determined by 973  
the probate judge, unless ~~he~~ the judge orders ~~them~~ those questions 974  
of fact to be tried by before a jury, or ~~referred,~~ refers those 975  
questions of fact to a special master commissioner as provided in 976  
sections 2101.06 and 2101.07, ~~and sections 2315.26 to 2315.37,~~ 977  
~~inclusive,~~ of the Revised Code. 978

**Sec. 2117.06.** (A) All creditors having claims against an 979  
estate, including claims arising out of contract, out of tort, on 980  
cognovit notes, or on judgments, whether due or not due, secured 981

or unsecured, liquidated or unliquidated, shall present their 982  
claims in one of the following manners: 983

(1) To the executor or administrator in a writing; 984

(2) To the executor or administrator in a writing, and to the 985  
probate court by filing a copy of the writing with it; 986

(3) In a writing that is sent by ordinary mail addressed to 987  
the decedent and that is actually received by the executor or 988  
administrator within the appropriate time specified in division 989  
(B) of this section. For purposes of this division, if an executor 990  
or administrator is not a natural person, the writing shall be 991  
considered as being actually received by the executor or 992  
administrator only if the person charged with the primary 993  
responsibility of administering the estate of the decedent 994  
actually receives the writing within the appropriate time 995  
specified in division (B) of this section. 996

(B) All claims shall be presented within one year after the 997  
death of the decedent, whether or not the estate is released from 998  
administration or an executor or administrator is appointed during 999  
that one-year period. Every claim presented shall set forth the 1000  
claimant's address. 1001

(C) A claim that is not presented within one year ~~ater~~ after 1002  
the death of the decedent shall be forever barred as to all 1003  
parties, including, but not limited to, devisees, legatees, and 1004  
distributees. No payment shall be made on the claim and no action 1005  
shall be maintained on the claim, except as otherwise provided in 1006  
sections 2117.37 to 2117.42 of the Revised Code, with reference to 1007  
contingent claims. 1008

(D) In the absence of any prior demand for allowance, the 1009  
executor or administrator shall allow or reject all claims, except 1010  
tax assessment claims, within thirty days after their 1011  
presentation, provided that failure of the executor or 1012

administrator to allow or reject within that time shall not 1013  
prevent ~~him~~ the executor or administrator from doing so after that 1014  
time and shall not prejudice the rights of any claimant. Upon the 1015  
allowance of a claim, the executor or the administrator, on demand 1016  
of the creditor, shall furnish the creditor with a written 1017  
statement or memorandum of the fact and date of such allowance. 1018

(E) If the executor or administrator has actual knowledge of 1019  
a pending action commenced against the decedent prior to ~~his~~ the 1020  
decedent's death in a court of record in this state, such executor 1021  
or administrator shall file a notice of his the appointment of the 1022  
executor or administrator in such pending action within ten days 1023  
after acquiring such knowledge. If the administrator or executor 1024  
is not a natural person, actual knowledge of a pending suit 1025  
against the decedent shall be limited to the actual knowledge of 1026  
the person charged with the primary responsibility of 1027  
administering the estate of the decedent. Failure to file the 1028  
notice within the ten-day period does not extend the claim period 1029  
established by this section. 1030

(F) This section applies to any person who is required to 1031  
give written notice to the executor or administrator of a motion 1032  
or application to revive an action pending against the decedent at 1033  
the date of the death of the decedent. 1034

(G) Nothing in this section or in section 2117.07 of the 1035  
Revised Code shall be construed to reduce the time mentioned in 1036  
section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the 1037  
Revised Code, provided that no portion of any recovery on a claim 1038  
brought pursuant to any of those sections shall come from the 1039  
assets of an estate, unless the claim has been presented against 1040  
the estate in accordance with Chapter 2117. of the Revised Code. 1041

(H) Any person whose claim has been presented, and not 1042  
thereafter rejected, is a creditor as that term is used in 1043  
Chapters 2113. to 2125. of the Revised Code. Claims that are 1044

contingent need not be presented except as provided in sections 1045  
2117.37 to 2117.42 of the Revised Code, but, whether presented 1046  
pursuant to those sections or this section, contingent claims may 1047  
be presented in any of the manners described in division (A) of 1048  
this section. 1049

(I) If a creditor presents a claim against an estate in 1050  
accordance with division (A)(2) of this section, the probate court 1051  
shall not close the administration of the estate until that claim 1052  
is allowed or rejected. 1053

(J) The probate court shall not require an executor or 1054  
administrator to make and return into the court a schedule of 1055  
claims against the estate. 1056

(K) If the executor or administrator makes a distribution of 1057  
the assets of the estate prior to the expiration of the time for 1058  
the filing of claims as set forth in this section, ~~he~~ the executor 1059  
or administrator shall provide notice to each distributee as 1060  
provided in section 2113.533 of the Revised Code. 1061

**Sec. 2125.01.** When the death of a person is caused by 1062  
wrongful act, neglect, or default which would have entitled the 1063  
party injured to maintain an action and recover damages if death 1064  
had not ensued, the person who would have been liable if death had 1065  
not ensued, or the administrator or executor of the estate of such 1066  
person, as such administrator or executor, shall be liable to an 1067  
action for damages, ~~notwithstanding~~ notwithstanding the death of 1068  
the person injured and although the death was caused under 1069  
circumstances which make it aggravated murder, murder, or 1070  
manslaughter. When the action is against such administrator or 1071  
executor, the damages recovered shall be a valid claim against the 1072  
estate of such deceased person. No action for the wrongful death 1073  
of a person may be maintained against the owner or lessee of the 1074  
real property upon which the death occurred if the cause of the 1075

death was the violent unprovoked act of a party other than the 1076  
owner, lessee, or a person under the control of the owner or 1077  
lessee, unless the acts or omissions of the owner, lessee, or 1078  
person under the control of the owner or lessee constitute gross 1079  
negligence. 1080

When death is caused by a wrongful act, neglect, or default 1081  
in another state or foreign country, for which a right to maintain 1082  
an action and recover damages is given by a statute of such other 1083  
state or foreign country, such right of action may be enforced in 1084  
this state. Every such action shall be commenced within the time 1085  
prescribed for the commencement of such actions by the statute of 1086  
such other state or foreign country. 1087

The same remedy shall apply to any such cause of action now 1088  
existing and to any such action commenced before January 1, 1932, 1089  
or attempted to be commenced in proper time and now appearing on 1090  
the files of any court within this state, and no prior law of this 1091  
state shall prevent the maintenance of such cause of action. 1092

**Sec. 2125.02.** (A)(1) Except as provided in this division, an 1093  
action for wrongful death shall be brought in the name of the 1094  
personal representative of the decedent for the exclusive benefit 1095  
of the surviving spouse, the children, and the parents of the 1096  
decedent, all of whom are rebuttably presumed to have suffered 1097  
damages by reason of the wrongful death, and for the exclusive 1098  
benefit of the other next of kin of the decedent. A parent who 1099  
abandoned a minor child who is the decedent shall not receive any 1100  
benefit in a wrongful death action brought under this division. 1101

(2) The jury, or the court if the action is not tried to a 1102  
jury, may award damages authorized by division (B) of this 1103  
section, as it determines are proportioned to the injury and loss 1104  
resulting to the beneficiaries described in division (A)(1) of 1105  
this section by reason of the wrongful death and may award the 1106

reasonable funeral and burial expenses incurred as a result of the 1107  
wrongful death. In its verdict, the jury or court shall set forth 1108  
separately the amount, if any, awarded for the reasonable funeral 1109  
and burial expenses incurred as a result of the wrongful death. 1110

(3)(a) The date of the decedent's death fixes, subject to 1111  
division (A)(3)(b)(iii) of this section, the status of all 1112  
beneficiaries of the action for purposes of determining the 1113  
damages suffered by them and the amount of damages to be awarded. 1114  
A person who is conceived prior to the decedent's death and who is 1115  
born alive after ~~his~~ the decedent's death is a beneficiary of the 1116  
action. 1117

(b)(i) In determining the amount of damages to be awarded, 1118  
the jury or court may consider all factors existing at the time of 1119  
the decedent's death that are relevant to a determination of the 1120  
damages suffered by reason of the wrongful death. 1121

(ii) Consistent with the Rules of Evidence, any party to an 1122  
action for wrongful death may present evidence of the cost of an 1123  
annuity in connection with any issue of recoverable future 1124  
damages. If such evidence is presented, then, in addition to the 1125  
factors described in division (A)(3)(b)(i) of this section and, if 1126  
applicable, division (A)(3)(b)(iii) of this section, the jury or 1127  
court may consider that evidence in determining the future damages 1128  
suffered by reason of the wrongful death. If such evidence is 1129  
presented, the present value in dollars of any annuity is its 1130  
cost. 1131

(iii) Consistent with the Rules of Evidence, any party to an 1132  
action for wrongful death may present evidence that the surviving 1133  
spouse of the decedent is remarried. If such evidence is 1134  
presented, then, in addition to the factors described in divisions 1135  
(A)(3)(b)(i) and (ii) of this section, the jury or court may 1136  
consider that evidence in determining the damages suffered by the 1137  
surviving spouse by reason of the wrongful death. 1138

(B) Compensatory damages may be awarded in an action for wrongful death and may include damages for the following:	1139 1140
(1) Loss of support from the reasonably expected earning capacity of the decedent;	1141 1142
(2) Loss of services of the decedent;	1143
(3) Loss of the society of the decedent, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education, suffered by the surviving spouse, minor children, parents, or next of kin;	1144 1145 1146 1147 1148
(4) Loss of prospective inheritance to the decedent's heirs at law at the time of <del>his</del> <u>the decedent's</u> death;	1149 1150
(5) The mental anguish incurred by the surviving spouse, minor children, parents, or next of kin.	1151 1152
(C) A personal representative appointed in this state, with the consent of the court making the appointment and at any time before or after the commencement of an action for wrongful death, may settle with the defendant the amount to be paid.	1153 1154 1155 1156
(D) An action for wrongful death shall be commenced within two years after the decedent's death.	1157 1158
(E)(1) If the personal representative of a deceased minor has actual knowledge or reasonable cause to believe that the minor was abandoned by a parent seeking to benefit from the wrongful death action or if any person listed in division (A)(1) of this section who is permitted to benefit in a wrongful death action filed in relation to a deceased minor has actual knowledge or reasonable cause to believe that the minor was abandoned by a parent seeking to benefit from the wrongful death action, the personal representative or the person may file a motion in the court in which the wrongful death action is filed requesting the court to	1159 1160 1161 1162 1163 1164 1165 1166 1167 1168

issue an order finding that the parent abandoned the child and is 1169  
not entitled to recover damages in the wrongful death action based 1170  
on the death of the deceased minor child. 1171

(2) The movant who files a motion described in division 1172  
(E)(1) of this section shall name the parent who abandoned the 1173  
child and, whether or not that parent is a resident of this state, 1174  
the parent shall be served with a summons and a copy of the motion 1175  
in accordance with the Rules of Civil Procedure. Upon the filing 1176  
of the motion, the court shall conduct a hearing. In the hearing 1177  
on the motion, the movant has the burden of proving, by a 1178  
preponderance of the evidence, that the parent abandoned the 1179  
deceased minor child. If, at the hearing, the court finds that the 1180  
movant has sustained that burden of proof, the court shall issue 1181  
an order that includes its finding that the parent abandoned the 1182  
deceased minor child and, because of the prohibition set forth in 1183  
division (A) of this section, the parent is not entitled to 1184  
recover damages in the wrongful death action based on the death of 1185  
the deceased minor child. 1186

(3) A motion requesting a court to issue an order finding 1187  
that the specified parent abandoned the child and is not entitled 1188  
to recover damages in the wrongful death action based on the death 1189  
of the deceased minor child may be filed at any time during the 1190  
pendency of the wrongful death action. 1191

(F) As used in this section: 1192

(1) "Annuity" means an annuity that would be purchased from 1193  
either of the following types of insurance companies: 1194

(a) An insurance company that the A. M. Best Company, in its 1195  
most recently published rating guide of life insurance companies, 1196  
has rated A or better and has rated XII or higher as to financial 1197  
size or strength; 1198

(b)(i) An insurance company that the superintendent of 1199

insurance, under rules adopted pursuant to Chapter 119. of the 1200  
Revised Code for purposes of implementing this division, 1201  
determines is licensed to do business in this state and, 1202  
considering the factors described in division (F)(1)(b)(ii) of 1203  
this section, is a stable insurance company that issues annuities 1204  
that are safe and desirable. 1205

(ii) In making determinations as described in division 1206  
(F)(1)(b)(i) of this section, the superintendent shall be guided 1207  
by the principle that the jury or court in an action for wrongful 1208  
death should be presented only with evidence as to the cost of 1209  
annuities that are safe and desirable for the beneficiaries of 1210  
such an action who are awarded compensatory damages under this 1211  
section. In making such determinations, the superintendent shall 1212  
consider the financial condition, general standing, operating 1213  
results, profitability, leverage, liquidity, amount and soundness 1214  
of reinsurance, adequacy of reserves, and the management of any 1215  
insurance company in question and also may consider ratings, 1216  
grades, and classifications of any nationally recognized rating 1217  
services of insurance companies and any other factors relevant to 1218  
the making of such determinations. 1219

(2) "Future damages" means damages that result from the 1220  
wrongful death and that will accrue after the verdict or 1221  
determination of liability by the jury or court is rendered in the 1222  
action for wrongful death. 1223

(3) "Abandoned" means that a parent of a minor failed without 1224  
justifiable cause to communicate with the minor, care for ~~him~~ the 1225  
minor, and provide for ~~his~~ the maintenance or support of the minor 1226  
as required by law or judicial decree for a period of at least one 1227  
year immediately prior to the date of the death of the minor. 1228

(4) "Minor" means a person who is less than eighteen years of 1229  
age. 1230

**Sec. 2125.04.** In every action for wrongful death commenced or 1231  
attempted to be commenced within the time specified by section 1232  
2125.02 of the Revised Code, if a judgment for the plaintiff is 1233  
reversed or if the plaintiff fails otherwise than upon the merits, 1234  
and the time limited by such section for the commencement of such 1235  
action has expired at the date of such reversal or failure, the 1236  
plaintiff or, if ~~he~~ the plaintiff dies and the cause of action 1237  
survives, ~~his~~ the personal representative of the plaintiff may 1238  
commence a new action within one year after such date. 1239

**Sec. 2305.01.** The court of common pleas has original 1240  
jurisdiction in all civil cases in which the sum or matter in 1241  
dispute exceeds the exclusive original jurisdiction of county 1242  
courts and appellate jurisdiction from the decisions of boards of 1243  
county commissioners. 1244

The court of common pleas may on its own motion transfer for 1245  
trial any action in the court to any municipal court in the county 1246  
having concurrent jurisdiction of the subject matter of, and the 1247  
parties to, the action, if the amount sought by the plaintiff does 1248  
not exceed one thousand dollars and if the judge or presiding 1249  
judge of the municipal court concurs in the proposed transfer. 1250  
Upon the issuance of an order of transfer, the clerk of courts 1251  
shall remove to the designated municipal court the entire case 1252  
file. Any untaxed portion of the common pleas deposit for court 1253  
costs shall be remitted to the municipal court by the clerk of 1254  
courts to be applied in accordance with section 1901.26 of the 1255  
Revised Code, and the costs taxed by the municipal court shall be 1256  
added to any costs taxed in the common pleas court. 1257

The court of common pleas has jurisdiction in any action 1258  
brought pursuant to division (I) of section 3733.11 of the Revised 1259  
Code if the residential premises that are the subject of the 1260  
action are located within the territorial jurisdiction of the 1261

court. 1262

The courts of common pleas of Adams, Athens, Belmont, Brown, 1263  
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 1264  
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 1265  
beyond the north or northwest shore of the Ohio river extending to 1266  
the opposite shore line, between the extended boundary lines of 1267  
any adjacent counties or adjacent state. Each of those courts of 1268  
common pleas has concurrent jurisdiction on the Ohio river with 1269  
any adjacent court of common pleas that borders on that river and 1270  
with any court of Kentucky or of West Virginia that borders on the 1271  
Ohio river and that has jurisdiction on the Ohio river under the 1272  
law of Kentucky or the law of West Virginia, whichever is 1273  
applicable, or under federal law. 1274

**Sec. 2305.10.** An action for bodily injury or injuring 1275  
personal property shall be brought within two years after the 1276  
cause thereof arose. 1277

For purposes of this section, a cause of action for bodily 1278  
injury caused by exposure to asbestos or to chromium in any of its 1279  
chemical forms arises upon the date on which the plaintiff is 1280  
informed by competent medical authority that ~~he~~ the plaintiff has 1281  
been injured by such exposure, or upon the date on which, by the 1282  
exercise of reasonable diligence, ~~he~~ the plaintiff should have 1283  
become aware that ~~he~~ the plaintiff had been injured by the 1284  
exposure, whichever date occurs first. 1285

For purposes of this section, a cause of action for bodily 1286  
injury incurred by a veteran through exposure to chemical 1287  
defoliants or herbicides or other causative agents, including 1288  
agent orange, arises upon the date on which the plaintiff is 1289  
informed by competent medical authority that ~~he~~ the plaintiff has 1290  
been injured by such exposure. 1291

As used in this section, "agent orange," "causative agent," 1292

and "veteran" have the same meanings as in section 5903.21 of the  
Revised Code.

For purposes of this section, a cause of action for bodily  
injury which may be caused by exposure to diethylstilbestrol or  
other nonsteroidal synthetic estrogens, including exposure before  
birth, upon the date on which the plaintiff learns from a licensed  
physician that ~~he~~ the plaintiff has an injury which may be related  
to such exposure, or upon the date on which by the exercise of  
reasonable diligence ~~he~~ the plaintiff should have become aware  
that ~~he~~ the plaintiff has an injury which may be related to such  
exposure, whichever date occurs first.

**Sec. 2305.11.** (A) An action for libel, slander, malicious  
prosecution, or false imprisonment, an action for malpractice  
other than an action upon a medical, dental, optometric, or  
chiropractic claim, or an action upon a statute for a penalty or  
forfeiture shall be commenced within one year after the cause of  
action accrued, provided that an action by an employee for the  
payment of unpaid minimum wages, unpaid overtime compensation, or  
liquidated damages by reason of the nonpayment of minimum wages or  
overtime compensation shall be commenced within two years after  
the cause of action accrued.

(B)(1) Subject to division (B)(2) of this section, an action  
upon a medical, dental, optometric, or chiropractic claim shall be  
commenced within one year after the cause of action accrued,  
except that, if prior to the expiration of that one-year period, a  
claimant who allegedly possesses a medical, dental, optometric, or  
chiropractic claim gives to the person who is the subject of that  
claim written notice that the claimant is considering bringing an  
action upon that claim, that action may be commenced against the  
person notified at any time within one hundred eighty days after  
the notice is so given.

(2) Except as to persons within the age of minority or of 1324  
unsound mind, as provided by section 2305.16 of the Revised Code: 1325

(a) In no event shall any action upon a medical, dental, 1326  
optometric, or chiropractic claim be commenced more than four 1327  
years after the occurrence of the act or omission constituting the 1328  
alleged basis of the medical, dental, optometric, or chiropractic 1329  
claim. 1330

(b) If an action upon a medical, dental, optometric, or 1331  
chiropractic claim is not commenced within four years after the 1332  
occurrence of the act or omission constituting the alleged basis 1333  
of the medical, dental, optometric, or chiropractic claim, then, 1334  
notwithstanding the time when the action is determined to accrue 1335  
under division (B)(1) of this section, any action upon that claim 1336  
is barred. 1337

(C) A civil action for unlawful abortion pursuant to section 1338  
2919.12 of the Revised Code, a civil action authorized by division 1339  
(H) of section 2317.56 of the Revised Code, a civil action 1340  
pursuant to division (B)(1) or (2) of section 2307.51 of the 1341  
Revised Code for performing a dilation and extraction procedure or 1342  
attempting to perform a dilation and extraction procedure in 1343  
violation of section 2919.15 of the Revised Code, and a civil 1344  
action pursuant to division (B)(1) or (2) of section 2307.52 of 1345  
the Revised Code for terminating or attempting to terminate a 1346  
human pregnancy after viability in violation of division (A) or 1347  
(B) of section 2919.17 of the Revised Code shall be commenced 1348  
within one year after the performance or inducement of the 1349  
abortion, within one year after the attempt to perform or induce 1350  
the abortion in violation of division (A) or (B) of section 1351  
2919.17 of the Revised Code, within one year after the performance 1352  
of the dilation and extraction procedure, or, in the case of a 1353  
civil action pursuant to division (B)(2) of section 2307.51 of the 1354  
Revised Code, within one year after the attempt to perform the 1355

dilation and extraction procedure. 1356

(D) As used in this section: 1357

(1) "Hospital" includes any person, corporation, association, 1358  
board, or authority that is responsible for the operation of any 1359  
hospital licensed or registered in the state, including, but not 1360  
limited to, those which are owned or operated by the state, 1361  
political subdivisions, any person, any corporation, or any 1362  
combination thereof. "Hospital" also includes any person, 1363  
corporation, association, board, entity, or authority that is 1364  
responsible for the operation of any clinic that employs a 1365  
full-time staff of physicians practicing in more than one 1366  
recognized medical specialty and rendering advice, diagnosis, 1367  
care, and treatment to individuals. "Hospital" does not include 1368  
any hospital operated by the government of the United States or 1369  
any of its branches. 1370

(2) "Physician" means a person who is licensed to practice 1371  
medicine and surgery or osteopathic medicine and surgery by the 1372  
state medical board or a person who otherwise is authorized to 1373  
practice medicine and surgery or osteopathic medicine and surgery 1374  
in this state. 1375

(3) "Medical claim" means any claim that is asserted in any 1376  
civil action against a physician, podiatrist, or hospital, against 1377  
any employee or agent of a physician, podiatrist, or hospital, or 1378  
against a registered nurse or physical therapist, and that arises 1379  
out of the medical diagnosis, care, or treatment of any person. 1380  
"Medical claim" includes derivative claims for relief that arise 1381  
from the medical diagnosis, care, or treatment of a person. 1382

(4) "Podiatrist" means any person who is licensed to practice 1383  
podiatric medicine and surgery by the state medical board. 1384

(5) "Dentist" means any person who is licensed to practice 1385  
dentistry by the state dental board. 1386

(6) "Dental claim" means any claim that is asserted in any 1387  
civil action against a dentist, or against any employee or agent 1388  
of a dentist, and that arises out of a dental operation or the 1389  
dental diagnosis, care, or treatment of any person. "Dental claim" 1390  
includes derivative claims for relief that arise from a dental 1391  
operation or the dental diagnosis, care, or treatment of a person. 1392

(7) "Derivative claims for relief" include, but are not 1393  
limited to, claims of a parent, guardian, custodian, or spouse of 1394  
an individual who was the subject of any medical diagnosis, care, 1395  
or treatment, dental diagnosis, care, or treatment, dental 1396  
operation, optometric diagnosis, care, or treatment, or 1397  
chiropractic diagnosis, care, or treatment, that arise from that 1398  
diagnosis, care, treatment, or operation, and that seek the 1399  
recovery of damages for any of the following: 1400

(a) Loss of society, consortium, companionship, care, 1401  
assistance, attention, protection, advice, guidance, counsel, 1402  
instruction, training, or education, or any other intangible loss 1403  
that was sustained by the parent, guardian, custodian, or spouse; 1404

(b) Expenditures of the parent, guardian, custodian, or 1405  
spouse for medical, dental, optometric, or chiropractic care or 1406  
treatment, for rehabilitation services, or for other care, 1407  
treatment, services, products, or accommodations provided to the 1408  
individual who was the subject of the medical diagnosis, care, or 1409  
treatment, the dental diagnosis, care, or treatment, the dental 1410  
operation, the optometric diagnosis, care, or treatment, or the 1411  
chiropractic diagnosis, care, or treatment. 1412

(8) "Registered nurse" means any person who is licensed to 1413  
practice nursing as a registered nurse by the state board of 1414  
nursing. 1415

(9) "Chiropractic claim" means any claim that is asserted in 1416  
any civil action against a chiropractor, or against any employee 1417

or agent of a chiropractor, and that arises out of the 1418  
chiropractic diagnosis, care, or treatment of any person. 1419  
"Chiropractic claim" includes derivative claims for relief that 1420  
arise from the chiropractic diagnosis, care, or treatment of a 1421  
person. 1422

(10) "Chiropractor" means any person who is licensed to 1423  
practice chiropractic by the chiropractic examining board. 1424

(11) "Optometric claim" means any claim that is asserted in 1425  
any civil action against an optometrist, or against any employee 1426  
or agent of an optometrist, and that arises out of the optometric 1427  
diagnosis, care, or treatment of any person. "Optometric claim" 1428  
includes derivative claims for relief that arise from the 1429  
optometric diagnosis, care, or treatment of a person. 1430

(12) "Optometrist" means any person licensed to practice 1431  
optometry by the state board of optometry. 1432

(13) "Physical therapist" means any person who is licensed to 1433  
practice physical therapy under Chapter 4755. of the Revised Code. 1434

**Sec. 2305.16.** Unless otherwise provided in sections 1302.98, 1435  
1304.35, and 2305.04 to 2305.14 of the Revised Code, if a person 1436  
entitled to bring any action mentioned in those sections, unless 1437  
for penalty or forfeiture, is, at the time the cause of action 1438  
accrues, within the age of minority or of unsound mind, the person 1439  
may bring it within the respective times limited by those 1440  
sections, after the disability is removed. When the interests of 1441  
two or more parties are joint and inseparable, the disability of 1442  
one shall inure to the benefit of all. 1443

After the cause of action accrues, if the person entitled to 1444  
bring the action becomes of unsound mind and is adjudicated as 1445  
such by a court of competent jurisdiction or is confined in an 1446  
institution or hospital under a diagnosed condition or disease 1447

which renders ~~him~~ the person of unsound mind, the time during 1448  
which ~~he~~ the person is of unsound mind and so adjudicated or so 1449  
confined shall not be computed as any part of the period within 1450  
which the action must be brought. 1451

**Sec. 2305.25.** ~~(A) No health care entity hospital, no state or~~ 1452  
~~local society,~~ and no individual who is a member of or ~~works on~~ 1453  
~~behalf~~ employee of any of the following ~~boards or committees of a~~ 1454  
~~health care entity or of any of the following corporations~~ shall 1455  
be liable in damages to any person for any acts, omissions, 1456  
decisions, or other conduct within the scope of the functions of 1457  
the ~~board, committee, or corporation:~~ 1458

~~(1)~~(A) A peer utilization review committee, quality 1459  
assurance, or tissue committee of a hospital or long-term care 1460  
facility, a nonprofit health care corporation which is a member of 1461  
the hospital or long-term care facility or of which the hospital 1462  
or facility is a member, or a community mental health center; 1463

~~(2)~~(B) A board or committee of a hospital or long-term care 1464  
facility or of a nonprofit health care corporation which is a 1465  
member of the hospital or long-term care facility or of which the 1466  
hospital or long-term care facility is a member reviewing 1467  
professional qualifications or activities of the medical staff of 1468  
the hospital or long-term care facility or applicants for 1469  
admission to the medical staff; 1470

~~(3)~~(C) A utilization committee of a state or local society 1471  
composed of doctors of medicine, doctors of osteopathic medicine, 1472  
or doctors of podiatric medicine; 1473

~~(4)~~(D) A peer review committee, professional standards review 1474  
committee, or arbitration committee of a state or local society 1475  
composed of doctors of medicine, doctors of osteopathic medicine, 1476  
doctors of dentistry, doctors of optometry, doctors of podiatric 1477  
medicine, psychologists, or pharmacists; 1478

+5)+(E) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could adversely affect, the health or welfare of any patient. For purposes of this division, "health insuring corporation" includes wholly owned subsidiaries of a health insuring corporation.

+6)+(F) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

+7)+(G) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the insurer to provide health care services to insureds, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

~~+8) A peer review committee of an insurer authorized under Title XXXIX of the Revised Code to do the business of medical professional liability insurance in this state and that conducts professional quality review activities involving the competence or professional conduct of health care providers, which conduct adversely affects, or could affect, the health or welfare of any~~

patient; 1511

~~(9) A peer review committee of a health care entity. 1512~~

~~(B)(1) A hospital shall be presumed to not be negligent in 1513  
the credentialing of a qualified person if the hospital proves by 1514  
a preponderance of the evidence that at the time of the alleged 1515  
negligent credentialing of the qualified person it was accredited 1516  
by the joint commission on accreditation of health care 1517  
organizations, the American osteopathic association, or the 1518  
national committee for quality assurance. 1519~~

~~(2) The presumption that a hospital is not negligent as 1520  
provided in division (B)(1) of this section may be rebutted only 1521  
by proof, by a preponderance of the evidence, of any of the 1522  
following: 1523~~

~~(a) The credentialing and review requirements of the 1524  
accrediting organization did not apply to the hospital, the 1525  
qualified person, or the type of professional care that is the 1526  
basis of the claim against the hospital. 1527~~

~~(b) The hospital failed to comply with all material 1528  
credentialing and review requirements of the accrediting 1529  
organization that applied to the qualified person. 1530~~

~~(c) The hospital, through its medical staff executive 1531  
committee or its governing body and sufficiently in advance to 1532  
take appropriate action, knew that a previously competent 1533  
qualified person with staff privileges at the hospital had 1534  
developed a pattern of incompetence that indicated that the 1535  
qualified person's privileges should have been limited prior to 1536  
treating the plaintiff at the hospital. 1537~~

~~(d) The hospital, through its medical staff executive 1538  
committee or its governing body and sufficiently in advance to 1539  
take appropriate action, knew that a previously competent 1540  
qualified person with staff privileges at the hospital would 1541~~

~~provide fraudulent medical treatment but failed to limit the 1542  
qualified person's privileges prior to treating the plaintiff at 1543  
the hospital. 1544~~

~~(3) If the plaintiff fails to rebut the presumption provided 1545  
in division (B)(1) of this section, upon the motion of the 1546  
hospital, the court shall enter judgment in favor of the hospital 1547  
on the claim of negligent credentialing. 1548~~

~~(C) Nothing in this section otherwise shall relieve any 1549  
individual or health care entity hospital from liability arising 1550  
from treatment of a patient or resident. Nothing in this section 1551  
shall be construed as creating an exception to section 2305.251 of 1552  
the Revised Code. 1553~~

~~This section shall also apply to any member or employee of a 1554  
nonprofit corporation engaged in performing the functions of a 1555  
peer review committee of nursing home providers or administrators 1556  
or of a peer review or professional standards review committee. 1557~~

~~(D) No person who provides information under this section 1558  
without malice and in the reasonable belief that the information 1559  
is warranted by the facts known to the person shall be subject to 1560  
suit for civil damages as a result of providing the information. 1561~~

~~(E) As used in this section: 1562~~

~~(1) "Peer review committee" means a utilization review 1563  
committee, quality assurance committee, quality improvement 1564  
committee, tissue committee, credentialing committee, or other 1565  
committee that conducts professional credentialing and quality 1566  
review activities involving the competence or professional conduct 1567  
of health care practitioners. 1568~~

~~(2) "Health care entity" means a government entity, a 1569  
for-profit or nonprofit corporation, a limited liability company, 1570  
a partnership, a professional corporation, a state or local 1571  
society as described in division (A)(3) of this section, or other 1572~~

~~health care organization, including, but not limited to, health  
care entities described in division (A) of this section, whether  
acting on its own behalf or on behalf of or in affiliation with  
other health care entities, that conducts, as part of its purpose,  
professional credentialing or quality review activities involving  
the competence or professional conduct of health care  
practitioners or providers.~~

~~(3) "Hospital" means either of the following:~~

~~(a) An institution that has been registered or licensed by  
the Ohio department of health as a hospital;~~

~~(b) An entity, other than an insurance company authorized to  
do business in this state, that owns, controls, or is affiliated  
with an institution that has been registered or licensed by the  
Ohio department of health as a hospital.~~

~~(4) "Qualified person" means a member of the medical staff of  
a hospital or a person who has professional privileges at a  
hospital pursuant to section 3701.351 of the Revised Code.~~

~~(F) This section shall be considered to be purely remedial in  
its operation and shall be applied in a remedial manner in any  
civil action in which this section is relevant, whether the civil  
action is pending in court or commenced on or after the effective  
date of this section, regardless of when the cause of action  
accrued and notwithstanding any other section of the Revised Code  
or prior rule of law of this state.~~

**Sec. 2305.251.** ~~Proceedings and records within the scope of  
the peer review or utilization review functions of all review  
boards, committees, or corporations described in section 2305.25  
of the Revised Code shall be held in confidence and shall not be  
subject to discovery or introduction in evidence in any civil  
action against a health care professional, a hospital, a long-term~~

care facility, a not-for-profit health care corporation that is a 1603  
member of a hospital or long-term care facility or of which a 1604  
hospital or long-term care facility is a member, or another health 1605  
care ~~entity~~ institution arising out of matters that are the 1606  
subject of evaluation and review by the ~~review board,~~ committee, 1607  
~~or corporation.~~ No person in attendance at a meeting of a review 1608  
~~board,~~ committee, ~~or corporation~~ or serving as a member ~~or~~ 1609  
~~employee~~ of a review ~~board,~~ committee, ~~or corporation~~ shall be 1610  
permitted or required to testify in any civil action as to any 1611  
evidence or other matters produced or presented during the 1612  
proceedings of the ~~review board,~~ committee, ~~or corporation~~ or as 1613  
to any finding, recommendation, evaluation, opinion, or other 1614  
action of the ~~review board,~~ committee, ~~or corporation~~ or a member 1615  
~~or employee~~ of it thereof. Information, documents, or records 1616  
otherwise available from original sources are not to be construed 1617  
as being unavailable for discovery or for use in any civil action 1618  
merely because they were presented during proceedings of a ~~review~~ 1619  
~~board,~~ committee, ~~or corporation,~~ nor should any person testifying 1620  
before a ~~review board,~~ committee, ~~or corporation~~ or who is a 1621  
member ~~or employee~~ of the ~~review board,~~ committee, ~~or corporation~~ 1622  
be prevented from testifying as to matters within the person's 1623  
knowledge, but the witness cannot be asked about the witness's 1624  
testimony before the ~~review board,~~ committee, ~~or corporation~~ or an 1625  
opinion formed by the witness as a result of the ~~review board,~~ 1626  
committee, ~~or corporation~~ hearing. ~~An order by a court to produce~~ 1627  
~~for discovery or for use at trial the proceedings or records~~ 1628  
~~described in this section is a final order.~~ 1629

**Sec. 2305.27.** Except as provided in section 2743.02 of the 1630  
Revised Code, in any medical claim, as defined in division (D) of 1631  
section 2305.11 of the Revised Code, an award of damages shall not 1632  
be reduced by insurance proceeds or payments or other benefits 1633  
paid under any insurance policy or contract where the premium or 1634

cost of such insurance policy or contract was paid either by or 1635  
for the person who has obtained the award, or by ~~his~~ the person's 1636  
employer, or both, or by direct payments from ~~his~~ the person's 1637  
employer, but shall be reduced by any other collateral recovery 1638  
for medical and hospital care, custodial care or rehabilitation 1639  
services, and loss of earned income. Unless otherwise expressly 1640  
provided by statute, a collateral source of indemnity shall not be 1641  
subrogated to the claimant against a physician, podiatrist, or 1642  
hospital. 1643

**Sec. 2305.35.** (A) As used in this section: 1644

(1) "Agency" has the same meaning as in section 2305.37 of 1645  
the Revised Code. 1646

(2) "Donor" means an owner, lessee, renter, or operator of a 1647  
farm or other real property who gives permission to a gleaner to 1648  
enter the property to salvage free-of-charge food items remaining 1649  
on the property for subsequent donations of the food items to, or 1650  
subsequent distributions of the food items by, an agency or 1651  
nonprofit organization. 1652

(3) "Gleaner" means any person that, with the permission of 1653  
the owner, lessee, renter, or operator of a farm or other real 1654  
property, enters the property to salvage free-of-charge food items 1655  
remaining on the property for subsequent donations of the food 1656  
items to, or subsequent distributions of the food items by, an 1657  
agency or nonprofit organization. 1658

(4) "Hazard" means a risk of serious physical harm to persons 1659  
or property. 1660

(5) "Nonprofit organization" means a corporation, 1661  
association, group, institution, society, or other organization 1662  
that is exempt from federal income taxation under section 1663  
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 1664

26 U.S.C. 501(c)(3), as amended. 1665

(6) "Tort action" means a civil action for damages for 1666  
injury, death, or loss to person or property. "Tort action" 1667  
includes a product liability claim that is subject to sections 1668  
2307.71 to 2307.80 of the Revised Code but does not include a 1669  
civil action for damages for a breach of contract or another 1670  
agreement between persons. 1671

(B)(1) Except as provided in division (B)(2) of this section, 1672  
a donor is not liable in damages to any person in a tort action 1673  
for injury, death, or loss to person or property sustained by a 1674  
gleaner as a result of any of the following: 1675

(a) Any condition of the farm or other real property on which 1676  
the gleaner is salvaging food items; 1677

(b) Any normal agricultural operations occurring on the farm 1678  
or other real property on which the gleaner is salvaging food 1679  
items; 1680

(c) Any risks of physical harm to persons or property 1681  
involved in salvaging the food items the gleaner is salvaging. 1682

(2) The immunity described in division (B)(1) of this section 1683  
does not apply to a donor in a tort action for injury, death, or 1684  
loss to person or property sustained by a gleaner as a result of 1685  
any condition, operations, or risks described in division 1686  
(B)(1)(a), (b), or (c) of this section if the injury, death, or 1687  
loss to person or property sustained by the gleaner was caused by 1688  
any of the following actions or omissions: 1689

(a) An action or omission of the donor that constitutes 1690  
negligence, if that negligence involves one or both of the 1691  
following: 1692

(i) The failure of the donor to warn the gleaner of a hazard 1693  
of which the donor had actual knowledge prior to the gleaner 1694

entering the property;	1695
(ii) The creation or enhancement of a hazard by the donor prior to the gleaner entering the property.	1696 1697
(b) An action or omission of the donor that constitutes willful or wanton misconduct or intentionally tortious conduct;	1698 1699
(c) An action or omission of an employee of the donor, a family member of the donor or another person associated with the donor that is imputable to the donor and that constitutes negligence, if that negligence involves one or both of the following:	1700 1701 1702 1703 1704
(i) The failure of the employee, family member, or other associated person to warn the gleaner of a hazard of which the employee, family member, or other associated person had actual knowledge prior to the gleaner entering the property;	1705 1706 1707 1708
(ii) The creation or enhancement of a hazard by the employee, family member, or other associated person prior to the gleaner entering the property.	1709 1710 1711
(d) An action or omission of an employee of the donor, a family member of the donor, or another person associated with the donor, that is imputable to the donor and that constitutes willful or wanton misconduct.	1712 1713 1714 1715
(C)(1) This section does not create a new cause of action or substantive legal right against donors.	1716 1717
(2) This section does not affect any immunities from or defenses to tort liability established by another section of the Revised Code or available at common law, to which donors may be entitled under circumstances not covered by this section.	1718 1719 1720 1721
<b>Sec. 2305.37.</b> (A) As used in this section:	1722
(1) "Agency" means any nonhospital, charitable nonprofit	1723

corporation that is organized and operated pursuant to Chapter 1724  
1702. of the Revised Code and that satisfies both of the 1725  
following, or any nonhospital, charitable association, group, 1726  
institution, organization, or society that is not organized and 1727  
not operated for profit and that satisfies both of the following: 1728

(a) It distributes perishable food, directly or indirectly, 1729  
to individuals in need. 1730

(b) It does not charge or accept any form of compensation 1731  
from the individuals in need for the distribution of the 1732  
perishable food to them. 1733

(2) "Food service operation" has the same meaning as in 1734  
section 3717.01 of the Revised Code. 1735

(3) "Food that is gleaned" means perishable food that remains 1736  
on a farm or other real property and that the owner, lessee, 1737  
renter, or operator of the property permits one or more persons to 1738  
salvage free-of-charge for subsequent donation to one or more 1739  
agencies. 1740

(4) "Harm" means injury, death, or loss to person or 1741  
property. 1742

(5) "Hospital" has the same meaning as in section 2108.01, 1743  
3701.01, or 5122.01 of the Revised Code. 1744

(6) "Individuals in need" means those persons who an agency 1745  
determines are eligible to receive free distributions of 1746  
perishable food because of poverty, illness, disability, infancy, 1747  
or other conditions or circumstances that may result in persons 1748  
having a need to receive free distributions of perishable food. 1749

(7) "Perishable food" means any food that may spoil or 1750  
otherwise become unfit for human consumption because of its 1751  
nature, age, or physical condition. "Perishable food" includes, 1752  
but is not limited to, fresh meats, processed meats, poultry, fish 1753

and other seafood, dairy products, bakery products, eggs in the 1754  
shell, fresh fruits, fresh vegetables, food that is gleaned, food 1755  
that is packaged, refrigerated, or frozen, food that is canned, 1756  
and prepared or other food that has not been served by a 1757  
restaurant, cafeteria, hospital, hotel, caterer, or other food 1758  
service operation to any customer, patient, or other person in the 1759  
ordinary course of business, by a public or private school, 1760  
college, university, or other educational institution to a student 1761  
or another person on the premises in the ordinary course of the 1762  
operation of the institution, or by a fraternal, veteran's, or 1763  
other organization to its members or other persons on the premises 1764  
in the ordinary course of the operation of the organization. 1765

(8) "Person" has the same meaning as in section 1.59 of the 1766  
Revised Code and additionally includes governmental entities. 1767

(9) "Sale date" has the same meaning as in section 3715.171 1768  
of the Revised Code. 1769

(10) "Tort action" means a civil action for damages for 1770  
injury, death, or loss to person or property. "Tort action" 1771  
includes a product liability claim that is subject to sections 1772  
2307.71 to 2307.80 of the Revised Code but does not include a 1773  
civil action for a breach of contract or another agreement between 1774  
persons. 1775

(B) Notwithstanding Chapter 3715. of the Revised Code, a 1776  
person who, in good faith, donates perishable food to an agency is 1777  
not liable in damages in a tort action for harm that allegedly 1778  
arises because that perishable food, when distributed by the 1779  
agency or any other agency to a particular individual in need, is 1780  
not fit for human consumption, if both of the following apply: 1781

(1) Prior to the donation of the perishable food to the 1782  
agency, the person determines that the perishable food will be fit 1783  
for human consumption at the time of its donation. A presumption 1784

favoring liability does not arise because the perishable food is 1785  
donated to an agency on or after an applicable sale date. 1786

(2) The person does not make the determination that the 1787  
perishable food will be fit for human consumption at the time of 1788  
its donation to the agency in a manner that constitutes negligence 1789  
or willful or wanton misconduct. 1790

(C)(1) This section does not create a new cause of action or 1791  
substantive legal right against persons who donate perishable food 1792  
to an agency. 1793

(2) This section does not affect any immunities from or 1794  
defenses to tort liability established by another section of the 1795  
Revised Code or available at common law to which persons who 1796  
donate perishable food other than to agencies may be entitled. 1797

**Sec. 2305.38.** (A) As used in this section: 1798

(1) "Charitable organization" means either of the following: 1799

(a) Any charitable nonprofit corporation that is organized 1800  
and operated pursuant to Chapter 1702. of the Revised Code, 1801  
including, but not limited to, any such corporation whose articles 1802  
of incorporation specify that it is organized and to be operated 1803  
for an education-related purpose; 1804

(b) Any charitable association, group, institution, or 1805  
society that is not organized and not operated for profit, 1806  
including, but not limited to, any such association, group, 1807  
institution, or society that is organized and operated for any 1808  
education-related purpose. 1809

(2) "Compensation" does not include actual and necessary 1810  
expenses that are incurred by a volunteer in connection with the 1811  
services that ~~he~~ the volunteer performs for a charitable 1812  
organization, and that are reimbursed to the volunteer or 1813  
otherwise paid. 1814

(3) "Corporate services" means services that are performed by a volunteer who is associated with a charitable organization as defined in division (A)(1)(a) of this section and that reflect duties or responsibilities arising under Chapter 1702. of the Revised Code.

(4) "Supervisory services" means services that are performed by a volunteer who is associated with a charitable organization as defined in division (A)(1)(a) or (b) of this section and that involve duties and responsibilities in connection with the supervision of one or more officers, employees, trustees, or other volunteers of that charitable organization.

(5) "Volunteer" means an officer, trustee, or other person who performs services for a charitable organization but does not receive compensation, either directly or indirectly, for those services.

(B) A volunteer is not liable in damages in a civil action for injury, death, or loss to ~~persons~~ person or property that arises from the actions or omissions of any of the officers, employees, trustees, or other volunteers of the charitable organization for which ~~he~~ the volunteer performs services, unless either of the following applies:

(1) With prior knowledge of an action or omission of a particular officer, employee, trustee, or other volunteer, the volunteer authorizes, approves, or otherwise actively participates in that action or omission.

(2) After an action or omission of a particular officer, employee, trustee, or other volunteer, the volunteer, with full knowledge of that action or omission, ratifies it.

(C) A volunteer is not liable in damages in a civil action for injury, death, or loss to ~~persons~~ person or property that arises from ~~his~~ the volunteer's actions or omissions in connection

with any supervisory or corporate services that ~~he~~ the volunteer 1846  
performs for the charitable organization, unless either of the 1847  
following applies: 1848

(1) An action or omission of the volunteer involves conduct 1849  
as described in division (B)(1) or (2) of this section; 1850

(2) An action or omission of the volunteer constitutes 1851  
willful or wanton misconduct or intentionally tortious conduct. 1852

(D) A volunteer is not liable in damages in a civil action 1853  
for injury, death, or loss to ~~persons~~ person or property that 1854  
arises from ~~his~~ the volunteer's actions or omissions in connection 1855  
with any nonsupervisory or noncorporate services that ~~he~~ the 1856  
volunteer performs for the charitable organization, unless either 1857  
of the following applies: 1858

(1) An action or omission of the volunteer involves conduct 1859  
as described in division (B)(1) or (2) of this section; 1860

(2) An action or omission of the volunteer constitutes 1861  
negligence, willful or wanton misconduct, or intentionally 1862  
tortious conduct. 1863

(E)(1) This section does not create, ~~and shall not be~~ 1864  
~~construed as creating,~~ a new cause of action or substantive legal 1865  
right against a volunteer. 1866

(2) This section does not affect, ~~and shall not be construed~~ 1867  
~~as affecting,~~ any immunities from civil liability or defenses 1868  
established by another section of the Revised Code or available at 1869  
common law, to which a volunteer may be entitled under 1870  
circumstances not covered by this section. This section does not 1871  
diminish in any respect the immunities provided in section 2305.25 1872  
of the Revised Code. The immunities conferred upon volunteers in 1873  
this section are not intended to affect the liability of a 1874  
charitable organization in a civil action for injury, death, or 1875  
loss to ~~persons~~ person or property. 1876

**Sec. ~~2307.24~~ 2307.16.** A partnership formed for the purpose of 1877  
carrying on a trade or business in this state, or holding property 1878  
in this state, may sue or be sued by the usual or ordinary name 1879  
~~which is~~ that it has assumed, or by which it is known. 1880  
1881

**Sec. ~~2307.27~~ 2307.17.** In an action for the recovery of real 1882  
or personal property, a person claiming an interest in the 1883  
property, on ~~his~~ application, may be made a party. 1884

**Sec. ~~2307.30~~ 2307.18.** An ~~A~~ judicial officer against whom an 1885  
action is brought to recover personal property taken by ~~him~~ the 1886  
officer on execution, or for the proceeds of such property sold by 1887  
~~him~~ the officer, upon exhibiting to the court the process under 1888  
which ~~he~~ the officer acted, with ~~his~~ the officer's affidavit that 1889  
the property was taken or sold by ~~him~~ the officer under such 1890  
process, may have the benefit of ~~section 2307.29 of the Revised~~ 1891  
~~Code~~ Civil Rule 22, against the party in whose favor the execution 1892  
issued. 1893

**Sec. 2307.31.** (A) Except as otherwise provided in this 1894  
section or section 2307.32 of the Revised Code, if two or more 1895  
persons are jointly and severally liable in tort for the same 1896  
injury or loss to person or property or for the same wrongful 1897  
death, there is a right of contribution among them even though 1898  
judgment has not been recovered against all or any of them. The 1899  
right of contribution exists only in favor of a tortfeasor who has 1900  
paid more than ~~his~~ that tortfeasor's proportionate share of the 1901  
common liability, and ~~his~~ that tortfeasor's total recovery is 1902  
limited to the amount paid by ~~him~~ that tortfeasor in excess of ~~his~~ 1903  
that tortfeasor's proportionate share. No tortfeasor is compelled 1904  
to make contribution beyond ~~his~~ that tortfeasor's own 1905

proportionate share of the common liability. There is no right of contribution in favor of any tortfeasor who intentionally has caused or intentionally has contributed to the injury or loss to person or property or the wrongful death.

(B) A tortfeasor who enters into a settlement with a claimant is not entitled recover contribution from another tortfeasor whose liability for the injury or loss to person or property or the wrongful death is not extinguished by the settlement, or in respect to any amount paid in a settlement which is in excess of what is reasonable.

(C) A liability insurer that by payment has discharged in full or in part of the liability of a tortfeasor and has thereby discharged in full its obligation as insurer is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's proportionate share of the common liability. This division does not limit or impair any right of subrogation arising from any other relationship.

(D) This section does not impair any right of indemnity under existing law. If one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of ~~his~~ the indemnity obligation.

(E) This section does not apply to breaches of trust or of other fiduciary obligations.

(F) The proportionate shares of tortfeasors in the common liability shall be based upon their relative degrees of legal responsibility. If equity requires the collective liability of some as a group, the group shall constitute a single share, and principles of equity applicable to contribution generally shall apply.

(G) Whether or not judgment has been entered in an action 1937  
against two or more tortfeasors for the same injury or loss to 1938  
person or property or for the same wrongful death, contribution 1939  
may be enforced by separate action. 1940

(H) Whenever the provisions of the "Federal Tort Claims Act," 1941  
60 Stat. 842 (1946), 28 U.S.C. 2671 et seq., are applicable to a 1942  
tort and the United States is held liable in tort, the United 1943  
States shall have no right of contribution hereunder against the 1944  
state pursuant to the waiver of sovereign immunity contained in 1945  
Chapter 2743. of the Revised Code. 1946

**Sec. 2307.32.** (A) If a judgment that imposes joint and 1947  
several liability has been entered in an action against two or 1948  
more tortfeasors for the same injury or loss to person or property 1949  
or for the same wrongful death, contribution may be enforced in 1950  
that action by judgment in favor of one against other judgment 1951  
debtors, by motion, upon notice to all parties to the action. 1952

(B) If there is a judgment for the injury or loss to person 1953  
or property or the wrongful death against the tortfeasor seeking 1954  
contribution, any separate action by ~~him~~ that tortfeasor to 1955  
enforce contribution shall be commenced within one year after the 1956  
judgment has become final by lapse of time for appeal or after 1957  
appellate review. 1958

(C) If there is no judgment for the injury or loss to person 1959  
or property or the wrongful death against the tortfeasor seeking 1960  
contribution, ~~his~~ that tortfeasor's right of contribution is 1961  
barred unless ~~he~~ that tortfeasor either has discharged by payment 1962  
the common liability within the statute of limitations period 1963  
applicable to the claimant's right of action against ~~him~~ that 1964  
tortfeasor and has commenced ~~his~~ that tortfeasor's action for 1965  
contribution within one year after payment, or has agreed while an 1966  
action is pending against ~~him~~ that tortfeasor to discharge the 1967

common liability and has within one year after the agreement paid 1968  
the common liability and commenced ~~his~~ that tortfeasor's action 1969  
for contribution. 1970

(D) The recovery of a judgment for an injury or loss to 1971  
person or property or a wrongful death against one tortfeasor does 1972  
not of itself discharge the other tortfeasors from liability for 1973  
the injury, loss, or wrongful death unless the judgment is 1974  
satisfied. The satisfaction of the judgment does not impair any 1975  
right of contribution. 1976

(E) Valid answers to interrogatories by a jury or findings of 1977  
fact by a court sitting without a jury in determining the 1978  
liability of the several defendants for an injury or loss to 1979  
person or property or a wrongful death shall be binding as among 1980  
such defendants in determining their right to contribution. 1981

(F) When a release or a covenant not to sue or not to enforce 1982  
judgment is given in good faith to one of two or more persons 1983  
liable in tort for the same injury or loss to person or property 1984  
or the same wrongful death, the following apply: 1985

(1) The release or covenant does not discharge any of the 1986  
other tortfeasors from liability for the injury, loss, or wrongful 1987  
death unless its terms otherwise provide, but it reduces the claim 1988  
against the other tortfeasors to the extent of any amount 1989  
stipulated by the release or the covenant, or in the amount of the 1990  
consideration paid for it, whichever is the greater+. 1991

(2) The release or covenant discharges the tortfeasor to whom 1992  
it is given from all liability for contribution to any other 1993  
tortfeasor. 1994

**Sec. 2307.33.** (A) Neither section 2307.31 nor 2307.32 of the 1995  
Revised Code applies to a negligence claim to the extent that 1996  
division (D) of section 2315.19 of the Revised Code makes a party 1997  
against whom a judgment is entered liable to the complainant only 1998

for the proportionate share of that party as described in division 1999  
(D)(1)(a) of that section. 2000

(B) Sections 2307.31 and 2307.32 of the Revised Code apply to 2001  
a negligence claim if division (D) of section 2315.19 of the 2002  
Revised Code is not applicable to that claim. 2003

**Sec. 2307.60.** ~~(A)~~ Anyone injured in person or property by a 2004  
criminal act has, and may recover full damages in, a civil action 2005  
unless specifically excepted by law, may recover the costs of 2006  
maintaining the civil action and attorney's fees if authorized by 2007  
any provision of the Rules of Civil Procedure or another section 2008  
of the Revised Code or under the common law of this state, and may 2009  
recover punitive or exemplary damages if authorized by section 2010  
2315.21 or another section of the Revised Code. ~~A No~~ record of a 2011  
conviction, unless obtained by confession in open court, shall ~~not~~ 2012  
be used as evidence in a civil action brought pursuant to ~~division~~ 2013  
~~(A)~~ of this section. 2014

~~(B)(1) As used in division (B) of this section:~~ 2015

~~(a) "Harm" means injury, death, or loss to person or 2016  
property. 2017~~

~~(b) "Tort action" means a civil action for damages for 2018  
injury, death, or loss to person or property other than a civil 2019  
action for damages for a breach of contract or another agreement 2020  
between persons "Tort action" includes, but is not limited to, a 2021  
product liability claim, an action for wrongful death under 2022  
Chapter 2125. of the Revised Code, and an action based on 2023  
derivative claims for relief. 2024~~

~~(2) Recovery on a claim for relief in a tort action is barred 2025  
to any person or the person's legal representative if the person 2026  
has been convicted of or has pleaded guilty to a felony, or to a 2027  
misdemeanor that is an offense of violence, arising out of 2028~~

~~criminal conduct that was a proximate cause of the injury or loss~~ 2029  
~~for which relief is claimed in the action.~~ 2030

~~(3) Division (B) of this section does not apply to civil~~ 2031  
~~claims based upon alleged intentionally tortious conduct, alleged~~ 2032  
~~violations of the United States Constitution, or alleged~~ 2033  
~~violations of statutes of the United States pertaining to civil~~ 2034  
~~rights.~~ 2035

**Sec. 2307.61.** (A) If a property owner brings a civil action 2036  
pursuant to ~~division (A) of~~ section 2307.60 of the Revised Code to 2037  
recover damages from any person who willfully damages the owner's 2038  
property or who commits a theft offense, as defined in section 2039  
2913.01 of the Revised Code, involving the owner's property, the 2040  
property owner may recover as follows: 2041

(1) In the civil action, the property owner may elect to 2042  
recover moneys as described in division (A)(1)(a) or (b) of this 2043  
section: 2044

(a) Compensatory damages that may include, but are not 2045  
limited to, the value of the property and liquidated damages in 2046  
whichever of the following amounts applies: 2047

(i) Fifty dollars, if the value of the property was fifty 2048  
dollars or less at the time it was willfully damaged or was the 2049  
subject of a theft offense; 2050

(ii) One hundred dollars, if the value of the property was 2051  
more than fifty dollars, but not more than one hundred dollars, at 2052  
the time it was willfully damaged or was the subject of a theft 2053  
offense; 2054

(iii) One hundred fifty dollars, if the value of the property 2055  
was more than one hundred dollars at the time it was willfully 2056  
damaged or was the subject of a theft offense. 2057

(b) Liquidated damages in whichever of the following amounts 2058

is greater: 2059

(i) Two hundred dollars; 2060

(ii) Three times the value of the property at the time it was 2061  
willfully damaged or was the subject of a theft offense, 2062  
irrespective of whether the property is recovered by way of 2063  
replevin or otherwise, is destroyed or otherwise damaged, is 2064  
modified or otherwise altered, or is resalable at its full market 2065  
price. This division does not apply to a check, negotiable order 2066  
of withdrawal, share draft, or other negotiable instrument that 2067  
was returned or dishonored for insufficient funds by a financial 2068  
institution if the check, negotiable order of withdrawal, share 2069  
draft, or other negotiable instrument was presented by an 2070  
individual borrower to a check-cashing business licensed pursuant 2071  
to sections 1315.35 to 1315.44 of the Revised Code for a 2072  
check-cashing loan transaction. 2073

(2) In a civil action in which the value of the property that 2074  
was willfully damaged or was the subject of a theft offense is 2075  
less than five thousand dollars, the property owner may recover 2076  
damages as described in division (A)(1)(a) or (b) of this section 2077  
and additionally may recover the reasonable administrative costs, 2078  
if any, of the property owner that were incurred in connection 2079  
with actions taken pursuant to division (A)(2) of this section, 2080  
the cost of maintaining the civil action, and reasonable 2081  
attorney's fees, if all of the following apply: 2082

(a) The property owner, at least thirty days prior to the 2083  
filing of the civil action, serves a written demand for payment of 2084  
moneys as described in division (A)(1)(a) of this section and the 2085  
reasonable administrative costs, if any, of the property owner 2086  
that have been incurred in connection with actions taken pursuant 2087  
to division (A)(2) of this section, upon the person who willfully 2088  
damaged the property or committed the theft offense. 2089

(b) The demand conforms to the requirements of division (C) 2090  
of this section and is sent by certified mail, return receipt 2091  
requested. 2092

(c) Either the person who willfully damaged the property or 2093  
committed the theft offense does not make payment to the property 2094  
owner of the amount specified in the demand within thirty days 2095  
after the date of its service upon that person and does not enter 2096  
into an agreement with the property owner during that thirty-day 2097  
period for that payment or the person who willfully damaged the 2098  
property or committed the theft offense enters into an agreement 2099  
with the property owner during that thirty-day period for that 2100  
payment but does not make that payment in accordance with the 2101  
agreement. 2102

(B) If a property owner who brings a civil action pursuant to 2103  
~~division (A) of~~ section 2307.60 of the Revised Code to recover 2104  
damages for willful damage to property or for a theft offense 2105  
attempts to collect the reasonable administrative costs, if any, 2106  
of the property owner that have been incurred in connection with 2107  
actions taken pursuant to division (A)(2) of this section, the 2108  
cost of maintaining the civil action, and reasonable attorney's 2109  
fees under authority of that division and if the defendant 2110  
prevails in the civil action, the defendant may recover from the 2111  
property owner reasonable attorney's fees, the cost of defending 2112  
the civil action, and any compensatory damages that may be proven. 2113

(C) For purposes of division (A)(2) of this section, a 2114  
written demand for payment shall include a conspicuous notice to 2115  
the person upon whom the demand is to be served that indicates all 2116  
of the following: 2117

(1) The willful property damage or theft offense that the 2118  
person allegedly committed; 2119

(2) That, if the person makes payment of the amount specified 2120

in the demand within thirty days after its service upon the person 2121  
or enters into an agreement with the property owner during that 2122  
thirty-day period for that payment and makes that payment in 2123  
accordance with the agreement, the person cannot be sued by the 2124  
property owner in a civil action in relation to the willful 2125  
property damage or theft offense; 2126

(3) That, if the person fails to make payment of the amount 2127  
specified in the demand within thirty days after the date of its 2128  
service upon the person and fails to enter into an agreement for 2129  
that payment with the property owner during that thirty-day period 2130  
or enters into an agreement for that payment with the property 2131  
owner during that thirty-day period but does not make that payment 2132  
in accordance with the agreement, the person may be sued in a 2133  
civil action in relation to the willful property damage or theft 2134  
offense; 2135

(4) The potential judgment that the person may be required to 2136  
pay if the person is sued in a civil action in relation to the 2137  
willful property damage or theft offense and judgment is rendered 2138  
against the person in that civil action; 2139

(5) That, if the person is sued in a civil action by the 2140  
property owner in relation to the willful property damage or theft 2141  
offense, if the civil action requests that the person be required 2142  
to pay the reasonable administrative costs, if any, of the 2143  
property owner that have been incurred in connection with actions 2144  
taken pursuant to division (A)(2) of this section, the cost of 2145  
maintaining the action, and reasonable attorney's fees, and if the 2146  
person prevails in the civil action, the person may recover from 2147  
the property owner reasonable attorney's fees, the cost of 2148  
defending the action, and any compensatory damages that can be 2149  
proved. 2150

(D) If a property owner whose property was willfully damaged 2151  
or was the subject of a theft offense serves a written demand for 2152

payment upon a person who willfully damaged the property or 2153  
committed the theft offense and if the person makes payment of the 2154  
amount specified in the demand within thirty days after the date 2155  
of its service upon the person or the person enters into an 2156  
agreement with the property owner during that thirty-day period 2157  
for that payment and makes payment in accordance with the 2158  
agreement, the property owner shall not file a civil action 2159  
against the person in relation to the willful property damage or 2160  
theft offense. 2161

(E) If a property owner whose property was willfully damaged 2162  
or was the subject of a theft offense serves a written demand for 2163  
payment upon a person who willfully damaged the property or 2164  
committed the theft offense and if the person, within thirty days 2165  
after the date of service of the demand upon the person, enters 2166  
into an agreement with the property owner for the payment of the 2167  
amount specified in the demand but does not make that payment in 2168  
accordance with the agreement, the time between the entering of 2169  
the agreement and the failure to make that payment shall not be 2170  
computed as any part of the period within which a civil action 2171  
based on the willful property damage or theft offense must be 2172  
brought under the Revised Code. 2173

(F) A civil action to recover damages for willful property 2174  
damage or for a theft offense may be joined with a civil action 2175  
that is brought pursuant to Chapter 2737. of the Revised Code to 2176  
recover the property. If the two actions are joined, any 2177  
compensatory damages recoverable by the property owner shall be 2178  
limited to the value of the property. 2179

(G)(1) In a civil action to recover damages for willful 2180  
property damage or for a theft offense, the trier of fact may 2181  
determine that an owner's property was willfully damaged or that a 2182  
theft offense involving the owner's property has been committed, 2183  
whether or not any person has pleaded guilty to or has been 2184

convicted of any criminal offense or has been adjudicated a delinquent child in relation to any act involving the owner's property.

(2) This section does not affect the prosecution of any criminal action or proceeding or any action to obtain a delinquent child adjudication in connection with willful property damage or a theft offense.

(H) As used in this section:

(1) "Administrative costs" includes the costs of written demands for payment and associated postage under division (A)(2) of this section.

(2) "Value of the property" means one of the following:

(a) The retail value of any property that is offered for sale by a mercantile establishment, irrespective of whether the property is destroyed or otherwise damaged, is modified or otherwise altered, or otherwise is not resalable at its full market price;

(b) The face value of any check or other negotiable instrument that is not honored due to insufficient funds in the drawer's account, the absence of any drawer's account, or another reason, and all charges imposed by a bank, savings and loan association, credit union, or other financial institution upon the holder of the check or other negotiable instrument;

(c) The replacement value of any property not described in division (H)(1) or (2) of this section.

**Sec. 2307.71.** As used in sections 2307.71 to 2307.80 of the Revised Code:

(A) "Claimant" means either of the following:

(1) A person who asserts a product liability claim or on

whose behalf such a claim is asserted; 2214

(2) If a product liability claim is asserted on behalf of the 2215  
surviving spouse, children, parents, or other next of kin of a 2216  
decedent or on behalf of the estate of a decedent, whether as a 2217  
claim in a wrongful death action under Chapter 2125. of the 2218  
Revised Code or as a survivorship claim, whichever of the 2219  
following is appropriate: 2220

(a) The decedent, if the reference is to the person who 2221  
allegedly sustained harm or economic loss for which, or in 2222  
connection with which, compensatory damages or punitive or 2223  
exemplary damages are sought to be recovered; 2224

(b) The personal representative of the decedent or the estate 2225  
of the decedent, if the reference is to the person who is 2226  
asserting or has asserted the product liability claim. 2227

(B) "Economic loss" means direct, incidental, or 2228  
consequential pecuniary loss, including, but not limited to, 2229  
damage to the product in question, and nonphysical damage to 2230  
property other than that product. Harm is not "economic loss." 2231

(C) "Environment" means navigable waters, surface water, 2232  
ground water, drinking water supplies, land surface, subsurface 2233  
strata, and air. 2234

(D) "Ethical drug" means a prescription drug that is 2235  
prescribed or dispensed by a physician or any other person who is 2236  
legally authorized to prescribe or dispense a prescription drug. 2237

(E) "Ethical medical device" means a medical device that is 2238  
prescribed, dispensed, or implanted by a physician or any other 2239  
person who is legally authorized to prescribe, dispense, or 2240  
implant a medical device and that is regulated under the "Federal 2241  
Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, 2242  
as amended. 2243

(F) "Foreseeable risk" means a risk of harm that satisfies	2244
both of the following:	2245
(1) It is associated with an intended or reasonably	2246
foreseeable use, modification, or alteration of a product in	2247
question;	2248
(2) It is a risk that the manufacturer in question should	2249
recognize while exercising both of the following:	2250
(a) The attention, perception, memory, knowledge, and	2251
intelligence that a reasonable manufacturer should possess;	2252
(b) Any superior attention, perception, memory, knowledge, or	2253
intelligence that the manufacturer in question possesses.	2254
(G) "Harm" means death, physical injury to person, serious	2255
emotional distress, or physical damage to property other than the	2256
product in question. Economic loss is not "harm."	2257
(H) "Hazardous or toxic substances" include, but are not	2258
limited to, hazardous waste as defined in section 3734.01 of the	2259
Revised Code, hazardous waste as specified in the rules of the	2260
director of environmental protection pursuant to division (A) of	2261
section 3734.12 of the Revised Code, hazardous substances as	2262
defined in section 3716.01 of the Revised Code, and hazardous	2263
substances, pollutants, and contaminants as defined in or by	2264
regulations adopted pursuant to the "Comprehensive Environmental	2265
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767,	2266
42 U.S.C. 9601, as amended.	2267
(I) "Manufacturer" means a person engaged in a business to	2268
design, formulate, produce, create, make, construct, assemble, or	2269
rebuild a product or a component of a product.	2270
(J) "Person" has the same meaning as in division (C) of	2271
section 1.59 of the Revised Code and also includes governmental	2272
entities.	2273

(K) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board. 2274  
2275  
2276

(L)(1) "Product" means, subject to division (L)(2) of this section, any object, substance, mixture, or raw material that constitutes tangible personal property and that satisfies all of the following: 2277  
2278  
2279  
2280

(a) It is capable of delivery itself, or as an assembled whole in a mixed or combined state, or as a component or ingredient; 2281  
2282  
2283

(b) It is produced, manufactured, or supplied for introduction into trade or commerce; 2284  
2285

(c) It is intended for sale or lease to persons for commercial or personal use. 2286  
2287

(2) "Product" does not include human tissue, blood, or organs. 2288  
2289

(M) "Product liability claim" means a claim that is asserted in a civil action and that seeks to recover compensatory damages from a manufacturer or supplier for death, physical injury to person, emotional distress, or physical damage to property other than the product in question, that allegedly arose from any of the following: 2290  
2291  
2292  
2293  
2294  
2295

(1) The design, formulation, production, construction, creation, assembly, rebuilding, testing, or marketing of that product; 2296  
2297  
2298

(2) Any warning or instruction, or lack of warning or instruction, associated with that product; 2299  
2300

(3) Any failure of that product to conform to any relevant representation or warranty. 2301  
2302

(N) "Representation" means an express representation of a 2303

material fact concerning the character, quality, or safety of a product. 2304  
2305

(O)(1) "Supplier" means, subject to division (O)(2) of this section, either of the following: 2306  
2307

(a) A person that, in the course of a business conducted for the purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise participates in the placing of a product in the stream of commerce; 2308  
2309  
2310  
2311

(b) A person that, in the course of a business conducted for the purpose, installs, repairs, or maintains any aspect of a product that allegedly causes harm. 2312  
2313  
2314

(2) "Supplier" does not include any of the following: 2315

(a) A manufacturer; 2316

(b) A seller of real property; 2317

(c) A provider of professional services who, incidental to a professional transaction the essence of which is the furnishing of judgment, skill, or services, sells or uses a product; 2318  
2319  
2320

(d) Any person who acts only in a financial capacity with respect to the sale of a product, or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor. 2321  
2322  
2323  
2324  
2325

(P) "Unavoidably unsafe" means that, in the state of technical, scientific, and medical knowledge at the time a product in question left the control of its manufacturer, an aspect of that product was incapable of being made safe. 2326  
2327  
2328  
2329

**Sec. 2307.72.** (A) Any recovery of compensatory damages based on a product liability claim is subject to sections 2307.71 to 2307.79 of the Revised Code. 2330  
2331  
2332

(B) Any recovery of punitive or exemplary damages in 2333  
connection with a product liability claim is subject to sections 2334  
2307.71 to 2307.80 of the Revised Code. 2335

(C) Any recovery of compensatory damages for economic loss 2336  
based on a claim that is asserted in a civil action, other than a 2337  
product liability claim, is not subject to sections 2307.71 to 2338  
2307.79 of the Revised Code, but may occur under the common law of 2339  
this state or other applicable sections of the Revised Code. 2340

(D)(1) Sections 2307.71 to 2307.80 of the Revised Code do not 2341  
supersede, modify, or otherwise affect any statute, regulation, or 2342  
rule of this state or of the United States, or the common law of 2343  
this state or of the United States, that relates to liability in 2344  
compensatory damages or punitive or exemplary damages for injury, 2345  
death, or loss to person or property, or to relief in the form of 2346  
the abatement of a nuisance, civil penalties, cleanup costs, cost 2347  
recovery, an injunction or temporary restraining order, or 2348  
restitution, that arises, in whole or in part, from contamination 2349  
or pollution of the environment or a threat of contamination or 2350  
pollution of the environment, including contamination or pollution 2351  
or a threat of contamination or pollution from hazardous or toxic 2352  
substances. 2353

(2) Consistent with the Rules of Civil Procedure, in the same 2354  
civil action against the same defendant or different defendants, a 2355  
claimant may assert both of the following: 2356

(a) A product liability claim, including a claim for the 2357  
recovery of punitive or exemplary damages in connection with a 2358  
product liability claim; 2359

(b) A claim for the recovery of compensatory damages or 2360  
punitive or exemplary damages for injury, death, or loss to person 2361  
or property, or for relief in the form of the abatement of a 2362  
nuisance, civil penalties, cleanup costs, cost recovery, an 2363

injunction or temporary restraining order, or restitution, that  
arises, in whole or in part, from contamination or pollution of  
the environment or a threat of contamination or pollution of the  
environment, including contamination or pollution or a threat of  
contamination or pollution from hazardous or toxic substances.

**Sec. 2307.73.** (A) A manufacturer is subject to liability for  
compensatory damages based on a product liability claim only if  
the claimant establishes, by a preponderance of the evidence, both  
of the following:

(1) Subject to division (B) of this section, the product in  
question was defective in manufacture or construction as described  
in section 2307.74 of the Revised Code, was defective in design or  
formulation as described in section 2307.75 of the Revised Code,  
was defective due to inadequate warning or instruction as  
described in section 2307.76 of the Revised Code, or was defective  
because it did not conform to a representation made by its  
manufacturer as described in section 2307.77 of the Revised Code;

(2) A defective aspect of the product in question as  
described in division (A)(1) of this section was a proximate cause  
of harm for which the claimant seeks to recover compensatory  
damages.

(B) If a claimant is unable because a product in question was  
destroyed to establish by direct evidence that the product in  
question was defective or if a claimant otherwise is unable to  
establish by direct evidence that a product in question was  
defective, then, consistent with the Rules of Evidence, it shall  
be sufficient for the claimant to present circumstantial or other  
competent evidence that establishes, by a preponderance of the  
evidence, that the product in question was defective in any one of  
the four respects specified in division (A)(1) of this section.

Sec. 2307.75. (A) Subject to divisions (D), (E), and (F) of 2394  
this section, a product is defective in design or formulation if 2395  
either of the following applies: 2396

(1) When it left the control of its manufacturer, the 2397  
foreseeable risks associated with its design or formulation as 2398  
determined pursuant to division (B) of this section exceeded the 2399  
benefits associated with that design or formulation as determined 2400  
pursuant to division (C) of this section; 2401

(2) It is more dangerous than an ordinary consumer would 2402  
expect when used in an intended or reasonably foreseeable manner. 2403

(B) The foreseeable risks associated with the design or 2404  
formulation of a product shall be determined by considering 2405  
factors including, but not limited to, the following: 2406

(1) The nature and magnitude of the risks of harm associated 2407  
with that design or formulation in light of the intended and 2408  
~~reasonably~~ reasonably foreseeable uses, modifications, or 2409  
alterations of the product; 2410

(2) The likely awareness of product users, whether based on 2411  
warnings, general knowledge, or otherwise, of those risks of harm; 2412

(3) The likelihood that that design or formulation would 2413  
cause harm in light of the intended and reasonably foreseeable 2414  
uses, modifications, or alterations of the product; 2415

(4) The extent to which that design or formulation conformed 2416  
to any applicable public or private product standard that was in 2417  
effect when the product left the control of its manufacturer. 2418

(C) The benefits associated with the design or formulation of 2419  
a product shall be determined by considering factors including, 2420  
but not limited to, the following: 2421

(1) The intended or actual utility of the product, including 2422

any performance or safety advantages associated with that design 2423  
or formulation; 2424

(2) The technical and economic feasibility, when the product 2425  
left the control of its manufacturer, of using an alternative 2426  
design or formulation; 2427

(3) The nature and magnitude of any foreseeable risks 2428  
associated with such an alternative design or formulation. 2429

(D) An ethical drug or ethical medical device is not 2430  
defective in design or formulation because some aspect of it is 2431  
unavoidably unsafe, if the manufacturer of the ethical drug or 2432  
ethical medical device provides adequate warning and instruction 2433  
under section 2307.76 of the Revised Code concerning that 2434  
unavoidably unsafe aspect. 2435

(E) A product is not defective in design or formulation if 2436  
the harm for which the claimant seeks to recover compensatory 2437  
damages was caused by an inherent characteristic of the product 2438  
which is a generic aspect of the product that cannot be eliminated 2439  
without substantially compromising the product's usefulness or 2440  
desirability and which is recognized by the ordinary person with 2441  
the ordinary knowledge common to the community. 2442

(F) A product is not defective in design or formulation if, 2443  
at the time the product left the control of its manufacturer, a 2444  
practical and technically feasible alternative design or 2445  
formulation was not available that would have prevented the harm 2446  
for which the claimant seeks to recover compensatory damages 2447  
without substantially impairing the usefulness or intended purpose 2448  
of the product, unless the manufacturer acted unreasonably in 2449  
introducing the product into trade or commerce. 2450

**Sec. 2307.78.** (A) Subject to division (B) of this section, a 2451  
supplier is subject to liability for compensatory damages based on 2452

a product liability claim only if the claimant establishes, by a preponderance of the evidence, that either of the following applies:

(1) The supplier in question was negligent and that, negligence was a proximate cause of harm for which the claimant seeks to recover compensatory damages;

(2) The product in question did not conform, when it left the control of the supplier in question, to a representation made by that supplier, and that representation and the failure to conform to it were a proximate cause of harm for which the claimant seeks to recover compensatory damages. A supplier is subject to liability for such a representation and the failure to conform to it even though the supplier did not act fraudulently, recklessly, or negligently in making the representation.

(B) A supplier of a product is subject to liability for compensatory damages based on a product liability claim under sections 2307.71 to 2307.77 of the Revised Code, as if it were the manufacturer of that product, if the manufacturer of that product is or would be subject to liability for compensatory damages based on a product liability claim under sections 2307.71 to 2307.77 of the Revised Code and any of the following applies:

(1) The manufacturer of that product is not subject to judicial process in this state;

(2) The claimant will be unable to enforce a judgment against the manufacturer of that product due to actual or asserted insolvency of the manufacturer;

(3) The supplier in question owns or, when it supplied that product, owned, in whole or in part, the manufacturer of that product;

(4) The supplier in question is owned or, when it supplied

that product, was owned, in whole or in part, by the manufacturer 2483  
of that product; 2484

(5) The supplier in question created or furnished a 2485  
manufacturer with the design or formulation that was used to 2486  
produce, create, make, construct, assemble, or rebuild that 2487  
product or a component of that product; 2488

(6) The supplier in question altered, modified, or failed to 2489  
maintain that product after it came into the possession of, and 2490  
before it left the possession of, the supplier in question, and 2491  
the alteration, modification, or failure to maintain that product 2492  
rendered it defective; 2493

(7) The supplier in question marketed that product under its 2494  
own label or trade name; 2495

(8) The supplier in question failed to respond timely and 2496  
reasonably to a written request by or on behalf of the claimant to 2497  
disclose to the claimant the name and address of the manufacturer 2498  
of that product. 2499

**Sec. 2307.80.** (A) Subject to division (C) of this section, 2500  
punitive or exemplary damages shall not be awarded against a 2501  
manufacturer or supplier in question in connection with a product 2502  
liability claim unless the claimant establishes, by clear and 2503  
convincing evidence, that harm for which ~~he~~ the claimant is 2504  
entitled to recover compensatory damages in accordance with 2505  
section 2307.73 or 2307.78 of the Revised Code was the result of 2506  
misconduct of the manufacturer or supplier in question that 2507  
manifested a flagrant disregard of the safety of persons who might 2508  
be harmed by the product in question. The fact by itself that a 2509  
product is defective does not establish a flagrant disregard of 2510  
the safety of persons who might be harmed by that product. 2511

(B) Whether the trier of fact is a jury or the court, if the 2512

trier of fact determines that a manufacturer or supplier in 2513  
question is liable for punitive or exemplary damages in connection 2514  
with a product liability claim, the amount of those damages shall 2515  
be determined by the court. In determining the amount of punitive 2516  
or exemplary damages, the court shall consider factors including, 2517  
but not limited to, the following: 2518

(1) The likelihood that serious harm would arise from the 2519  
misconduct of the manufacturer or supplier in question; 2520

(2) The degree of the awareness of the manufacturer or 2521  
supplier in question of that likelihood; 2522

(3) The profitability of the misconduct to the manufacturer 2523  
or supplier in question; 2524

(4) The duration of the misconduct and any concealment of it 2525  
by the manufacturer or supplier in question; 2526

(5) The attitude and conduct of the manufacturer or supplier 2527  
in question upon the discovery of the misconduct and whether the 2528  
misconduct has terminated; 2529

(6) The financial condition of the manufacturer or supplier 2530  
in question; 2531

(7) The total effect of other punishment imposed or likely to 2532  
be imposed upon the manufacturer or supplier in question as a 2533  
result of the misconduct, including awards of punitive or 2534  
exemplary damages to persons similarly situated to the claimant 2535  
and the severity of criminal penalties to which the manufacturer 2536  
or supplier in question has been or is likely to be subjected. 2537

(C) If a claimant alleges in a product liability claim that a 2538  
drug caused harm to ~~him~~ the claimant, the manufacturer of the drug 2539  
shall not be liable for punitive or exemplary damages in 2540  
connection with that product liability claim if the drug that 2541  
allegedly caused the harm was manufactured and labeled in relevant 2542

and material respects in accordance with the terms of an approval 2543  
or license issued by the federal food and drug administration 2544  
under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 2545  
(1938), 21 U.S.C. 301-392, as amended, or the "Public Health 2546  
Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as 2547  
amended, unless it is established by a preponderance of the 2548  
evidence, that the manufacturer fraudulently and in violation of 2549  
applicable regulations of the food and drug administration 2550  
withheld from the food and drug administration information known 2551  
to be material and relevant to the harm that the claimant 2552  
allegedly suffered or misrepresented to the food and drug 2553  
administration information of that type. For purposes of this 2554  
division, "drug" has the meaning given to that term in ~~section~~ 2555  
~~1201(g)(1)~~ of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 2556  
1040, 1041 (1938), 21 U.S.C. ~~301-392~~ 321(g)(1), as amended. 2557

**Sec. 2315.01.** When the jury is sworn, unless for special 2558  
reasons the court otherwise directs, the trial shall proceed in 2559  
the following order except as provided in section 2315.02 of the 2560  
Revised Code: 2561

(A) The plaintiff concisely must state ~~his~~ the plaintiff's 2562  
claim, and briefly may state ~~his~~ the plaintiff's evidence to 2563  
sustain it. 2564

(B) The defendant must then briefly state ~~his~~ the defendant's 2565  
defense, and briefly may state ~~his~~ the defendant's evidence in 2566  
support of it. 2567

(C) The party who would be defeated if no evidence were 2568  
offered on either side, first, must produce ~~his~~ that party's 2569  
evidence, and the adverse party must then produce ~~his~~ the adverse 2570  
party's evidence. 2571

(D) The parties then shall be confined to rebutting evidence, 2572  
unless the court for good reasons, in the furtherance of justice, 2573

permits them to offer evidence in their original cases. 2574

(E) When the evidence is concluded, either party may present 2575  
written instructions to the court on matters of law and request 2576  
them to be given to the jury, which instructions shall be given or 2577  
refused by the court before the argument to the jury is commenced. 2578

(F) The parties then may submit or argue the case to the 2579  
jury. The party required first to produce ~~his~~ that party's 2580  
evidence shall have the opening and closing arguments. If several 2581  
defendants, having separate defenses, appear by different counsel, 2582  
the court shall arrange their relative order. 2583

(G) The court, after the argument is concluded, before 2584  
proceeding with other business, shall charge the jury. Any charge 2585  
shall be reduced to writing by the court if either party, before 2586  
the argument to the jury is commenced, requests it. Such charge 2587  
may be examined by the parties before any closing argument is made 2588  
by any of the parties. A charge or instruction, when so written 2589  
and given, shall not be orally qualified, modified, or in any 2590  
manner explained to the jury by the court. All written charges and 2591  
instructions shall be taken by the jurors in their retirement, 2592  
returned with their verdict into court, and shall remain on file 2593  
with the papers of the case. 2594

**Sec. 2313.46.** Sections 2313.01 to 2313.46, ~~inclusive,~~ and 2595  
~~2315.01 to 2315.24, inclusive,~~ Chapter 2315. of the Revised Code 2596  
do not contravene or affect any section of the Revised Code 2597  
relating to jurors in the inferior courts in any county of the 2598  
state. 2599

**Sec. ~~2315.07~~ 2315.05.** Because of the sickness of a juror, or 2600  
an accident or calamity which requires it, or with the consent of 2601  
both parties, or after jurors have been kept together until it 2602  
satisfactorily appears that there is no probability of their 2603

agreeing, the court may discharge the jury. 2604

**Sec. ~~2315.08~~ 2315.06.** When the jury is discharged during a 2605  
trial or after a cause is submitted, such cause may at once be 2606  
tried again, or on a future day, as the court directs. 2607

**Sec. ~~2315.18~~ 2315.07.** Except as otherwise provided in this 2608  
section, when by the verdict in a civil action tried to a jury any 2609  
party in the action is entitled to recover money from an adverse 2610  
party, the jury shall determine the amount of the recovery in its 2611  
verdict. A jury shall not determine the amount of punitive or 2612  
exemplary damages recoverable by a party in a tort action pursuant 2613  
to section 2315.21 or another section of the Revised Code except 2614  
as provided in division (D)(5) of section 2315.21 of the Revised 2615  
Code. 2616

As used in this section, "tort action" has the same meaning 2617  
as in section 2315.21 of the Revised Code. 2618

**Sec. ~~2315.23~~ 2315.08.** So far as in their nature applicable, 2619  
sections 2315.01 to 2315.19, ~~inclusive~~, of the Revised Code, 2620  
respecting trials by jury, apply to trials by the court. 2621

**Sec. ~~2315.24~~ 2315.09.** Parties to a question ~~which~~ that might 2622  
be the subject of a civil action, on filing an affidavit that the 2623  
controversy is real and the proceeding in good faith to determine 2624  
their rights, may agree upon a case containing the facts upon 2625  
which the controversy depends and present a submission of it to 2626  
any court of competent jurisdiction, ~~which~~. The court shall hear 2627  
and determine the case and render judgment as if an action were 2628  
pending. 2629

The case, the submission, and the judgment constitutes the 2630  
record of a question submitted under this section. 2631

Such judgment shall be with costs, may be enforced, and shall 2632  
be subject to reversal, in like manner, as if it were rendered in 2633  
an action, unless otherwise provided in the submission. 2634

**Sec. 2315.19.** (A)(1) Contributory negligence or implied 2635  
assumption of the risk of the complainant or of the person for 2636  
whom the complainant is legal representative may be asserted as an 2637  
affirmative defense to a negligence claim. 2638

(2) Contributory negligence or implied assumption of the risk 2639  
of a person does not bar the person or ~~his~~ the person's legal 2640  
representative as complainant from recovering damages that have 2641  
directly and proximately resulted from the negligence of one or 2642  
more other persons, if the contributory negligence or implied 2643  
assumption of the risk of the complainant or of the person for 2644  
whom ~~he~~ the complainant is legal representative was no greater 2645  
than the combined negligence of all other persons from whom the 2646  
complainant seeks recovery. However, any compensatory damages 2647  
recoverable by the complainant shall be diminished by an amount 2648  
that is proportionately equal to the percentage of negligence or 2649  
implied assumption of the risk of the complainant or of the person 2650  
for whom ~~he~~ the complainant is legal representative, which 2651  
percentage is determined pursuant to division (B) of this section. 2652  
This section does not apply to actions described in section 2653  
4113.03 of the Revised Code. 2654

(B) If contributory negligence or implied assumption of the 2655  
risk is asserted and established as an affirmative defense to a 2656  
negligence claim, the court in a nonjury action shall make 2657  
findings of fact, and the jury in a jury action shall return a 2658  
general verdict accompanied by answers to interrogatories, that 2659  
shall specify the following: 2660

(1) The total amount of the compensatory damages that would 2661  
have been recoverable on that negligence claim but for the 2662

negligence or implied assumption of the risk of the complainant or 2663  
the person for whom ~~he~~ the complainant is legal representative; 2664

(2) The portion of the compensatory damages specified under 2665  
division (B)(1) of this section that represents economic loss; 2666

(3) The portion of the compensatory damages specified under 2667  
division (B)(1) of this section that represents noneconomic loss; 2668

(4) The percentage of negligenc or implied assumption of the 2669  
risk that directly and proximately caused the injury, death, or 2670  
loss to person or property, in relation to one hundred per cent, 2671  
that is attributable to the complainant or the person for whom he 2672  
is legal representative, and the percentage of negligence that 2673  
directly and proximately caused the injury, death, or loss to 2674  
person or property, in relation to one hundred per cent, that is 2675  
attributable to each party to the action from whom the complainant 2676  
seeks recovery. If the court or jury must determine percentages of 2677  
negligence under this division for two or more parties from whom 2678  
the complainant seeks recovery and an issue of vicarious 2679  
liability, including, but not limited to, liability of a principal 2680  
or master for the negligent actions or omissions of an agent or 2681  
servant, exists relative to those parties, then, for purposes of 2682  
determining such percentages, the court in a nonjury action shall 2683  
determine, or the jury in a jury action pursuant to an instruction 2684  
from the court shall determine, that the parties in question are 2685  
to be treated as a single party to the extent that any vicarious 2686  
liability is determined to exist relative to those parties. 2687

(C) After the court makes its findings of fact or after the 2688  
jury returns its general verdict accompanied by answers to 2689  
interrogatories as described in division (B) of this section, the 2690  
court shall diminish the total amount of the compensatory damages 2691  
that would have been recoverable by an amount that is 2692  
proportionately equal to the percentage of negligence or implied 2693  
assumption of the risk that is attributable to the complainant or 2694

the person for whom ~~he~~ the complainant is legal representative, 2695  
which percentage was determined pursuant to division (B) of this 2696  
section. If the percentage of the negligence or implied assumption 2697  
of the risk that is attributable to the complainant or the person 2698  
for whom ~~he~~ the complainant is legal representative is greater 2699  
than the total of the percentages of the negligence that is 2700  
attributable to all parties from whom the complainant seeks 2701  
recovery, which percentages were determined pursuant to division 2702  
(B) of this section, the court shall enter judgment in favor of 2703  
those parties. 2704

(D)(1) If contributory negligence or implied assumption of 2705  
the risk is asserted as an affirmative defense to a negligence 2706  
claim, if it is determined that the complainant or the person for 2707  
whom ~~he~~ the complainant is legal representative was contributorily 2708  
negligent or impliedly assumed a risk and that such contributory 2709  
negligence or implied assumption of the risk was a direct and 2710  
proximate cause of the injury, death, or loss to person or 2711  
property in question, and if the complainant is entitled to 2712  
recover compensatory damages pursuant to this section from more 2713  
than one party, then, after it makes findings of fact or after the 2714  
jury returns its general verdict accompanied by answers to 2715  
interrogatories as described in division (B) of this section, the 2716  
court shall enter a judgment that is in favor of the complainant 2717  
and that states all of the following: 2718

(a) Proportionate shares of the portion of the compensatory 2719  
damages that represents noneconomic loss for each party against 2720  
whom the judgment is entered and for the complainant or the person 2721  
for whom he is legal representative, which shares shall be 2722  
computed by multiplying the portion of the compensatory damages 2723  
that represents noneconomic loss as determined pursuant to 2724  
division (B)(3) of this section by the respective percentages of 2725  
negligence or implied assumption of the risk as determined 2726

pursuant to division (B)(4) of this section; 2727

(b) In relation to the portion of the compensatory damages 2728  
that represents noneconomic loss as determined pursuant to 2729  
division (B)(3) of this section, each party against whom the 2730  
judgment is entered is liable to the complainant only for the 2731  
proportionate share of that party as described in division 2732  
(D)(1)(a) of this section; 2733

(c) In relation to the portion of the compensatory damages 2734  
that represents economic loss as determined pursuant to division 2735  
(B)(2) of this section, each party against whom the judgment is 2736  
entered is jointly and severally liable to the complainant for the 2737  
entire amount of economic loss for which the complainant is 2738  
entitled to judgment as determined pursuant to divisions (B)(2) 2739  
and (C) of this section. 2740

(2) Sections 2307.31 and 2307.32 of the Revised Code apply in 2741  
relation to the portion of the compensatory damages that 2742  
represents economic loss and for which joint and several liability 2743  
attaches under division (D)(1)(c) of this section. 2744

(E) As used in this section: 2745

(1) "Economic loss" means any of the following types of 2746  
pecuniary harm: 2747

(a) All wages, salaries, or other compensation lost as a 2748  
result of an injury, death, or loss to person or property that is 2749  
a subject of a negligence claim; 2750

(b) All expenditures for medical care or treatment, 2751  
rehabilitation services, or other care, treatment, services, 2752  
products, or accommodations as a result of an injury, death, or 2753  
loss to person or property that is a subject of a negligence 2754  
claim; 2755

(c) Any other expenditures incurred as a result of an injury, 2756

death, or loss to person or property that is a subject of a 2757  
negligence claim. 2758

(2) "Negligence claim" means a civil action for damages for 2759  
injury, death, or loss to person or property to the extent that 2760  
such damages are sought or recovered based on allegation or proof 2761  
of negligence. 2762

(3) "Noneconomic loss" means nonpecuniary harm that results 2763  
from an injury, death, or loss to person or property that is a 2764  
subject of a negligence claim, including, but not limited to, pain 2765  
and suffering, loss of society, consortium, companionship, care, 2766  
assistance, attention, protection, advice, guidance, counsel, 2767  
instruction, training, or education, mental anguish, and any other 2768  
intangible loss. 2769

**Sec. 2315.20.** (A) As used in this section, "claimant," 2770  
"harm," "product liability claim," and "supplier" have the same 2771  
meanings as in section 2307.71 of the Revised Code. 2772

(B)(1) Express or implied assumption of the risk may be 2773  
asserted as an affirmative defense to a product liability claim 2774  
under sections 2307.71 to 2307.80 of the Revised Code. 2775

(2) Subject to division (B)(3) of this section, if express or 2776  
implied assumption of the risk is asserted as an affirmative 2777  
defense to a product liability claim under sections 2307.71 to 2778  
2307.80 of the Revised Code and if it is determined that the 2779  
claimant expressly or impliedly assumed a risk and that such 2780  
express or implied assumption of the risk was a direct and 2781  
proximate cause of harm for which the claimant seeks to recover 2782  
damages, the express or implied assumption of the risk is a 2783  
complete bar to the recovery of those damages. 2784

(3) If implied assumption of the risk is asserted as an 2785  
affirmative defense to a product liability claim against a 2786

supplier under division (A)(1) of section 2307.78 of the Revised Code, section 2315.19 of the Revised Code is applicable to that affirmative defense and shall be used to determine whether the claimant is entitled to recover compensatory damages based on that claim and the amount of any recoverable compensatory damages.

(C)(1) Except as provided in division (C)(2) of this section, contributory negligence is not an affirmative defense to a product liability claim under sections 2307.71 to 2307.80 of the Revised Code.

(2) Contributory negligence may be asserted as an affirmative defense to a product liability claim against a supplier under division (A)(1) of section 2307.78 of the Revised Code. If contributory negligence is asserted as an affirmative defense to such a product liability claim, section 2315.19 of the Revised Code is applicable to that affirmative defense and shall be used to determine whether the claimant is entitled to recover compensatory damages based on that claim and the amount of any recoverable compensatory damages.

**Sec. 2315.21.** (A) As used in this section:

(1) "Tort action" means a civil action for damages for injury person or property. "Tort action" includes a product liability claim for damages for injury or loss to person or property that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.

(2) "Trier of fact" means the jury or, in a nonjury action, the court.

(B) Subject to division (D) of this section, punitive or exemplary damages are not recoverable from a defendant in question in a tort action unless both of the following apply:

(1) The actions or omissions of that defendant demonstrate malice, aggravated or egregious fraud, oppression, or insult, or that defendant as principal or master authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate;

(2) The plaintiff in question has adduced proof of actual damages that resulted from actions or omissions as described in division (B)(1) of this section.

(C)(1) In a tort action, the trier of fact shall determine the liability of any defendant for punitive or exemplary damages.

(2) In a tort action, whether the trier of fact is a jury or the court, if the trier of fact determines that any defendant is liable for punitive or exemplary damages, the amount of those damages shall be determined by the court.

(3) In a tort action, the burden of proof shall be upon a plaintiff in question, by clear and convincing evidence, to establish that ~~he~~ the plaintiff is entitled to recover punitive or exemplary damages.

(D) This section does not apply to tort actions against the state in the court of claims or to the extent that another section of the Revised Code expressly provides any of the following:

(1) Punitive or exemplary damages are recoverable from a defendant in question in a tort action on a basis other than that the actions or omissions of that defendant demonstrate malice, aggravated or egregious fraud, oppression, or insult, or on a basis other than that the defendant in question as principal or master authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate;

(2) Punitive or exemplary damages are recoverable from a defendant in question in a tort action irrespective of whether the plaintiff in question has adduced proof of actual damages;

(3) The burden of proof upon a plaintiff in question to 2848  
recover punitive or exemplary damages from a defendant in question 2849  
in a tort action is one other than clear and convincing evidence; 2850

(4) Punitive or exemplary damages are not recoverable from a 2851  
defendant in question in a tort action; 2852

(5) The amount of punitive or exemplary damages awarded 2853  
against a defendant in question in a tort action may be determined 2854  
by a jury as the trier of fact. 2855

**Sec. 2317.62.** (A) As used in this section: 2856

(1) "Annuity" means an annuity that would be purchased from 2857  
either of the following types of insurance companies: 2858

(a) An insurance company that the A.M. Best Company, in its 2859  
most recently published rating guide of life insurance companies, 2860  
has rated A or better and has rated XII or higher as to financial 2861  
size or strength; 2862

(b)(i) An insurance company that the superintendent of 2863  
insurance, under rules adopted pursuant to Chapter 119. of the 2864  
Revised Code for purposes of implementing this division, 2865  
determines is licensed to do business in this state and, 2866  
considering the factors described in division (A)(1)(b)(ii) of 2867  
this section, is a stable insurance company that issues annuities 2868  
that are safe and desirable; 2869

(ii) In making determinations as described in division 2870  
(A)(1)(b)(i) of this section, the superintendent shall be guided 2871  
by the principle that the trier of fact in a tort action should be 2872  
presented only with evidence as to the cost of annuities that are 2873  
safe and desirable for the plaintiffs in such an action who are 2874  
awarded damages. In making such determinations, the superintendent 2875  
shall consider the financial condition, general standing, 2876  
operating results, profitability, leverage, liquidity, amount and 2877

soundness of reinsurance, adequacy of reserves, and the management 2878  
of any insurance company in question and also may consider 2879  
ratings, grades, and classifications of any nationally recognized 2880  
rating services of insurance companies and any other factors 2881  
relevant to the making of such determinations. 2882

(2) "Future damages" means damages that result from an injury 2883  
or loss to person or property that is a subject of a tort action 2884  
and that will accrue after the verdict or determination of 2885  
liability by the trier of fact is rendered in that tort action. 2886

(3) "Tort action" means a civil action for damages for injury 2887  
or loss to person or property. "Tort action" includes a product 2888  
liability claim that is subject to sections 2307.71 to 2307.80 of 2889  
the Revised Code, but does not include a civil action for damages 2890  
for a breach of contract or another agreement between persons. 2891

(4) "Trier of fact" means the jury or, in a nonjury action, 2892  
the court. 2893

(B) Consistent with the Rules of Evidence, any party to a 2894  
tort action may present evidence of the cost of an annuity in 2895  
connection with any issue of recoverable future damages. If such 2896  
evidence is presented, then the trier of fact may consider that 2897  
evidence in determining the future damages suffered by reason of 2898  
an injury or loss to person or property that is a subject of the 2899  
tort action. If such evidence is presented, the present value in 2900  
dollars of any annuity is its cost. 2901

**Sec. 2323.51.** (A) As used in this section: 2902

(1) "Conduct" means any of the following: 2903

(a) The filing of a civil action, the assertion of a claim, 2904  
defense, or other position in connection with a civil action, or 2905  
the taking of any other action in connection with a civil action; 2906

(b) The filing by an inmate of a civil action or appeal 2907

against a government entity or employee, the assertion of a claim, 2908  
defense or other position in connection with a civil action of 2909  
that nature or the assertion of issues of law in an appeal of that 2910  
nature, or the taking of any other action in connection with a 2911  
civil action or appeal of that nature. 2912

(2) "Frivolous conduct" means either of the following: 2913

(a) Conduct of an inmate or other party to a civil action, of 2914  
an inmate who has filed an appeal of the type described in 2915  
division (A)(1)(b) of this section, or of the inmate's or other 2916  
party's counsel of record that satisfies either of the following: 2917

(i) It obviously serves merely to harass or maliciously 2918  
injure another party to the civil action or appeal. 2919

(ii) It is not warranted under existing law and cannot be 2920  
supported by a good faith argument for an extension, modification, 2921  
or reversal of existing law. 2922

(b) An inmate's commencement of a civil action or appeal 2923  
against a government entity or employee when any of the following 2924  
applies: 2925

(i) The claim that is the basis of the civil action fails to 2926  
state a claim or the issues of law that are the basis of the 2927  
appeal fail to state any issues of law. 2928

(ii) It is clear that the inmate cannot prove material facts 2929  
in support of the claim that is the basis of the civil action or 2930  
in support of the issues of law that are the basis of the appeal. 2931

(iii) The claim that is the basis of the civil action is 2932  
substantially similar to a claim in a previous civil action 2933  
commenced by the inmate or the issues of law that are the basis of 2934  
the appeal are substantially similar to issues of law raised in a 2935  
previous appeal commenced by the inmate, in that the claim that is 2936  
the basis of the current civil action or the issues of law that 2937

are the basis of the current appeal involve the same parties or  
arise from the same operative facts as the claim or issues of law  
in the previous civil action or appeal.

(3) "Civil action or appeal against a government entity or  
employee," "inmate," "political subdivision," and "employee" have  
the same meanings as in section 2969.21 of the Revised Code.

(4) "Reasonable attorney's fees" or "attorney's fees," when  
used in relation to a civil action or appeal against a government  
entity or employee, includes both of the following, as applicable:

(a) The approximate amount of the compensation, and the  
fringe benefits, if any, of the attorney general, an assistant  
attorney general, or special counsel appointed by the attorney  
general that has been or will be paid by the state in connection  
with the legal services that were rendered by the attorney  
general, assistant attorney general, or special counsel in the  
civil action or appeal against the government entity or employee,  
including, but not limited to, a civil action or appeal commenced  
pro se by an inmate, and that were necessitated by frivolous  
conduct of an inmate represented by counsel of record, the counsel  
of record of an inmate, or a pro se inmate.

(b) The approximate amount of the compensation, and the  
fringe benefits, if any, of a prosecuting attorney or other chief  
legal officer of a political subdivision, or an assistant to a  
chief legal officer of those natures, who has been or will be paid  
by a political subdivision in connection with the legal services  
that were rendered by the chief legal officer or assistant in the  
civil action or appeal against the government entity or employee,  
including, but not limited to, a civil action or appeal commenced  
pro se by an inmate, and that were necessitated by frivolous  
conduct of an inmate represented by counsel of record, the counsel  
of record of an inmate, or a pro se inmate.

(5) "State" has the same meaning as in section 2743.01 of the Revised Code. 2969  
2970

(6) "State correctional institution" has the same meaning as in section 2967.01 of the Revised Code. 2971  
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(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of this section, at any time prior to the commencement of the trial in a civil action or within twenty-one days after the entry of judgment in a civil action or at any time prior to the hearing in an appeal of the type described in division (A)(1)(b) of this section that is filed by an inmate or within twenty-one days after the entry of judgment in an appeal of that nature, the court may award court costs, reasonable attorney's fees, and other reasonable expenses incurred in connection with the civil action or appeal to any party to the civil action or appeal who was adversely affected by frivolous conduct. The award may be assessed as provided in division (B)(4) of this section. 2973  
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(2) An award may be made pursuant to division (B)(1) of this section upon the motion of a party to a civil action or an appeal of the type described in that division, but only after the court does all of the following: 2985  
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(a) Sets a date for a hearing to be conducted in accordance with division (B)(2)(c) of this section, to determine whether particular conduct was frivolous, to determine, if the conduct was frivolous, whether any party was adversely affected by it, and to determine, if an award is to be made, the amount of that award; 2989  
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(b) Gives notice of the date of the hearing described in division (B)(2)(a) of this section to each party or counsel of record who allegedly engaged in frivolous conduct and to each party who allegedly was adversely affected by frivolous conduct; 2994  
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(c) Conducts the hearing described in division (B)(2)(a) of this section in accordance with this division, allows the parties 2998  
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and counsel of record involved to present any relevant evidence at 3000  
the hearing, including evidence of the type described in division 3001  
(B)(5) of this section, determines that the conduct involved was 3002  
frivolous and that a party was adversely affected by it, and then 3003  
determines the amount of the award to be made. If any party or 3004  
counsel of record who allegedly engaged in or allegedly was 3005  
adversely affected by frivolous conduct is confined in a state 3006  
correctional institution or in a county, multicounty, municipal, 3007  
municipal-county, or multicounty-municipal jail or workhouse, the 3008  
court, if practicable, may hold the hearing by telephone or, in 3009  
the alternative, at the institution, jail, or workhouse in which 3010  
the party or counsel is confined. 3011

(3) The amount of an award made pursuant to division (B)(1) 3012  
of this section that represents reasonable attorney's fees shall 3013  
not exceed, and may be equal to or less than, whichever of the 3014  
following is applicable: 3015

(a) If the party is being represented on a contingent fee 3016  
basis, an amount that corresponds to reasonable fees that would 3017  
have been charged for legal services had the party been 3018  
represented on an hourly fee basis or another basis other than a 3019  
contingent fee basis; 3020

(b) In all situations other than that described in division 3021  
(B)(3)(a) of this section, the attorney's fees that were 3022  
reasonably incurred by a party. 3023

(4) An award made pursuant to division (B)(1) of this section 3024  
may be made against a party, the party's counsel of record, or 3025  
both. 3026

(5)(a) In connection with the hearing described in division 3027  
(B)(2)(a) of this section, each party who may be awarded 3028  
reasonable attorney's fees and the party's counsel of record may 3029  
submit to the court or be ordered by the court to submit to it, 3030

for consideration in determining the amount of the reasonable attorney's fees, an itemized list or other evidence of the legal services rendered, the time expended in rendering the services, and whichever of the following is applicable:

(i) If the party is being represented by that counsel on a contingent fee basis, the reasonable attorney's fees that would have been associated with those services had the party been represented by that counsel on an hourly fee basis or another basis other than a contingent fee basis;

(ii) In all situations other than those described in division (B)(5)(a)(i) of this section, the attorney's fees associated with those services.

(b) In connection with the hearing described in division (B)(2)(a) of this section, each party who may be awarded court costs and other reasonable expenses incurred in connection with the civil action or appeal may submit to the court or be ordered by the court to submit to it, for consideration in determining the amount of the costs and expenses, an itemized list or other evidence of the costs and expenses incurred in connection with that action or appeal, including, but not limited to, expert witness fees and expenses associated with discovery.

(C) An award of reasonable attorney's fees under this section does not affect or determine the amount of or the manner of computation of attorney's fees as between an attorney and the attorney's client.

(D) This section does not affect or limit the application of any provision of the Rules of Civil Procedure, the Rules of Appellate Procedure, or another court rule or section of the Revised Code to the extent that the provision prohibits an award of court costs, attorney's fees, or other expenses incurred in connection with a particular civil action or appeal or authorizes

an award of court costs, attorney's fees, or other expenses 3062  
incurred in connection with a particular civil action or appeal in 3063  
a specified manner, generally, or subject to limitations. 3064

**Sec. 2501.02.** Each judge of a court of appeals shall have 3065  
been admitted to practice as an attorney at law in this state and 3066  
have, for a total of six years preceding ~~his~~ the judge's 3067  
appointment or commencement of ~~his~~ the judge's term, engaged in 3068  
the practice of law in this state or served as a judge of a court 3069  
of record in any jurisdiction in the United States, or both. One 3070  
judge shall be chosen in each court of appeals district every two 3071  
years, and shall hold office for six years, beginning on the ninth 3072  
day of February next after ~~his~~ the judge's election. ~~In~~ 3073

In addition to the original jurisdiction conferred by Section 3074  
3 of Article IV, Ohio Constitution, the court shall have 3075  
jurisdiction<sup>+</sup> upon an appeal upon questions of law to review, 3076  
affirm, modify, set aside, or reverse judgments or final orders of 3077  
courts of record inferior to the court of appeals within the 3078  
district, including the finding, order, or judgment of a juvenile 3079  
court that a child is delinquent, neglected, abused, or dependent, 3080  
for prejudicial error committed by such lower court. 3081

The court, on good cause shown, may issue writs of 3082  
supersedeas in any case, and all other writs, not specially 3083  
provided for or prohibited by statute, necessary to enforce the 3084  
administration of justice. 3085

**Sec. 2743.18.** (A)(1) Prejudgment interest shall be allowed 3086  
with respect to a civil action on which a judgment or 3087  
determination is rendered against the state for the same period of 3088  
time and at the same rate as allowed between private parties to a 3089  
suit. 3090

(2) The court of claims, in its discretion, may deny 3091

prejudgment interest for any period of undue delay between the 3092  
commencement of the civil action and the entry of a judgment or 3093  
determination against the state, for which it finds the claimant 3094  
to have been responsible. 3095

(B)(1) Except as otherwise provided in division (B)(2) of 3096  
this section, interest shall be allowed on a judgment or 3097  
determination rendered against the state in a civil action 3098  
pursuant to this chapter at the same rate that is applicable to 3099  
judgments rendered against private parties to a suit as specified 3100  
in ~~division (A)~~ of section 1343.03 of the Revised Code and for 3101  
each day between the date of entry of the judgment or the 3102  
determination pursuant to division (C) of section 2743.10 of the 3103  
Revised Code and the date of payment of the judgment or 3104  
determination pursuant to division (C)(3) or (6) of section 3105  
2743.19 of the Revised Code, or for sixty days from the date of 3106  
entry of the judgment or the determination, whichever is less. 3107

(2) If the court of claims renders a judgment pursuant to 3108  
this chapter against the state in a civil action or the clerk of 3109  
the court of claims enters an administrative determination under 3110  
section 2743.10 of the Revised Code against the state in a civil 3111  
action, the civil action is not based on tortious conduct, and the 3112  
claimant in the court of claims prevails in any appeal of the 3113  
judgment or determination, postjudgment interest shall be paid 3114  
with respect to the judgment or determination rendered against the 3115  
state at the same rate that is applicable to judgments rendered 3116  
against private parties to a suit as set forth in ~~division (A)~~ of 3117  
section 1343.03 of the Revised Code and for each day between the 3118  
date of entry of the judgment or determination and the date of 3119  
payment of the judgment or determination pursuant to division 3120  
(C)(3) or (6) of section 2743.19 of the Revised Code. 3121

**Sec. 2743.19.** (A) In rendering a judgment against the state, 3122

the court of claims shall determine and specify in the judgment 3123  
the department, office, commission, board, agency, institution, or 3124  
other instrumentality of the state against which a determination 3125  
of liability has been made. The court of claims shall award 3126  
compensation for fees to a prevailing party in an action under 3127  
this chapter in accordance with section 2335.39 of the Revised 3128  
Code. 3129

(B) No execution shall issue against the state or any 3130  
department, board, office, commission, agency, institution, or 3131  
other instrumentality of the state upon any judgment for the 3132  
payment of money. 3133

(C) Judgments shall be accomplished only through the 3134  
following procedure, which may be enforced by writ of mandamus 3135  
directed to the appropriate official: 3136

(1) The clerk of the court of claims shall forward a 3137  
certified copy of the judgment to the director of budget and 3138  
management and the attorney general or the officer who signed the 3139  
investigative report for the department, office, commission, 3140  
board, agency, institution, or other instrumentality of the state 3141  
against which a determination of liability has been made. 3142

(2) The expense of a judgment paid, plus interest at the same 3143  
rate that is applicable to judgments rendered against private 3144  
parties to a suit as specified in ~~division (A)~~ of section 1343.03 3145  
of the Revised Code and for the number of days determined pursuant 3146  
to division (B)(1) or (2) of section 2743.18 of the Revised Code, 3147  
shall be charged by the director of budget and management against 3148  
available unencumbered moneys in the appropriations to whichever 3149  
state departments, boards, offices, commissions, agencies, 3150  
institutions, or other instrumentalities are named in the 3151  
judgment. The director of budget and management shall have sole 3152  
discretion to determine whether or not unencumbered moneys in a 3153  
particular appropriation are available for satisfaction of a 3154

judgment. 3155

(3) The director of budget and management, upon receipt of 3156  
the certified copy of the judgment from the clerk of the court of 3157  
claims pursuant to division (C)(1) of this section, shall provide 3158  
for payment of the judgment creditor in the amount of the judgment 3159  
certified by the clerk of the court of claims, plus interest. 3160

(4) If the director of budget and management determines that 3161  
sufficient unencumbered moneys do not exist in the particular 3162  
appropriations to pay the judgment and interest, the director may 3163  
make application for payment of the judgment and interest out of 3164  
the emergency purposes account or another appropriation for 3165  
emergencies or contingencies. 3166

(5) If moneys in the emergency purposes account or another 3167  
appropriation for emergencies or contingencies are not used to pay 3168  
the judgment and interest, the director of budget and management 3169  
shall request the general assembly to make an appropriation 3170  
sufficient to pay the judgment and interest, and no payment shall 3171  
be made until the appropriation has been made. The appropriate 3172  
state department, board, office, commission, agency, institution, 3173  
or other instrumentality shall make this appropriation request 3174  
during the current biennium and during each succeeding biennium 3175  
until a sufficient appropriation is made. 3176

(6) If the judgment is against any department, board, office, 3177  
commission, agency, institution, or other instrumentality of the 3178  
state whose funds are not handled by the director of budget and 3179  
management, the instrumentality against which the judgment is 3180  
made, within sixty days after the date of the judgment, shall pay 3181  
the judgment creditor in the amount of the judgment plus interest 3182  
at the same rate that is applicable to judgments rendered against 3183  
private parties to a suit as specified in ~~division (A)~~ of section 3184  
1343.03 of the Revised Code and for the number of days determined 3185  
pursuant to division (B)(1) or (2) of section 2743.18 of the 3186

Revised Code. 3187

(D) No judgment shall be forwarded by the clerk of the court 3188  
of claims to the director of budget and management until all 3189  
appeals have been determined and all rights to appeal have been 3190  
exhausted, except as otherwise provided in this section. If a 3191  
party to a civil action against the state appeals from only a 3192  
portion of a judgment and if a remaining portion provides for the 3193  
payment of money by the state, a certified copy of the judgment 3194  
and a copy of the notice of appeal shall be forwarded to the 3195  
director, and that part of the judgment calling for the payment of 3196  
money by the state and not a subject of the appeal shall be 3197  
processed for payment as described in this section. 3198

**Sec. 2744.01.** As used in this chapter: 3199

(A) "Emergency call" means a call to duty, including, but not 3200  
limited to, communications from citizens, police dispatches, and 3201  
personal observations by peace officers of inherently dangerous 3202  
situations that demand an immediate response on the part of a 3203  
peace officer. 3204

(B) "Employee" means an officer, agent, employee, or servant, 3205  
whether or not compensated or full-time or part-time, who is 3206  
authorized to act and is acting within the scope of the officer's, 3207  
agent's, employee's, or servant's employment for a political 3208  
subdivision. "Employee" does not include an independent contractor 3209  
and does not include any individual engaged by a school district 3210  
pursuant to section 3319.301 of the Revised Code. "Employee" 3211  
includes any elected or appointed official of a political 3212  
subdivision. "Employee" also includes a person who has been 3213  
convicted of or pleaded guilty to a criminal offense and who has 3214  
been sentenced to perform community service work in a political 3215  
subdivision whether pursuant to section 2951.02 of the Revised 3216  
Code or otherwise, and a child who is found to be a delinquent 3217

child and who is ordered by a juvenile court pursuant to section 3218  
2151.355 of the Revised Code to perform community service or 3219  
community work in a political subdivision. 3220

(C)(1) "Governmental function" means a function of a 3221  
political subdivision that is specified in division (C)(2) of this 3222  
section or that satisfies any of the following: 3223

(a) A function that is imposed upon the state as an 3224  
obligation of sovereignty and that is performed by a political 3225  
subdivision voluntarily or pursuant to legislative requirement; 3226

(b) A function that is for the common good of all citizens of 3227  
the state; 3228

(c) A function that promotes or preserves the public peace, 3229  
health, safety, or welfare; that involves activities that are not 3230  
engaged in or not customarily engaged in by nongovernmental 3231  
persons; and that is not specified in division (G)(2) of this 3232  
section as a proprietary function. 3233

(2) A "governmental function" includes, but is not limited 3234  
to, the following: 3235

(a) The provision or nonprovision of police, fire, emergency 3236  
medical, ambulance, and rescue services or protection; 3237

(b) The power to preserve the peace; to prevent and suppress 3238  
riots, disturbances, and disorderly assemblages; to prevent, 3239  
mitigate, and clean up releases of oil and hazardous and extremely 3240  
hazardous substances as defined in section 3750.01 of the Revised 3241  
Code; and to protect persons and property; 3242

(c) The provision of a system of public education; 3243

(d) The provision of a free public library system; 3244

(e) The regulation of the use of, and the maintenance and 3245  
repair of, roads, highways, streets, avenues, alleys, sidewalks, 3246  
bridges, aqueducts, viaducts, and public grounds; 3247

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;	3248 3249
(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;	3250 3251 3252 3253
(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code;	3254 3255 3256 3257
(i) The enforcement or nonperformance of any law;	3258
(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;	3259 3260
(k) The collection and disposal of solid wastes, as defined in section 3734.01 of the Revised Code, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section, and the collection and management of hazardous waste generated by households. As used in division (C)(2)(k) of this section, "hazardous waste generated by households" means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under section 3734.12 of the Revised Code, but that is excluded from regulation as a hazardous waste by those rules.	3261 3262 3263 3264 3265 3266 3267 3268 3269 3270 3271 3272
(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;	3273 3274 3275
(m) The operation of a human services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;	3276 3277 3278

(n) The operation of a health board, department, or agency,	3279
including, but not limited to, any statutorily required or	3280
permissive program for the provision of immunizations or other	3281
inoculations to all or some members of the public, provided that a	3282
"governmental function" does not include the supply, manufacture,	3283
distribution, or development of any drug or vaccine employed in	3284
any such immunization or inoculation program by any supplier,	3285
manufacturer, distributor, or developer of the drug or vaccine;	3286
(o) The operation of mental health facilities, mental	3287
retardation or developmental disabilities facilities, alcohol	3288
treatment and control centers, and children's homes or agencies;	3289
(p) The provision or nonprovision of inspection services of	3290
all types, including, but not limited to, inspections in	3291
connection with building, zoning, sanitation, fire, plumbing, and	3292
electrical codes, and the taking of actions in connection with	3293
those types of codes, including, but not limited to, the approval	3294
of plans for the construction of buildings or structures and the	3295
issuance or revocation of building permits or stop work orders in	3296
connection with buildings or structures;	3297
(q) Urban renewal projects and the elimination of slum	3298
conditions;	3299
(r) Flood control measures;	3300
(s) The design, construction, reconstruction, renovation,	3301
operation, care, repair, and maintenance of a township cemetery;	3302
(t) The issuance of revenue obligations under section 140.06	3303
of the Revised Code;	3304
(u) The design, construction, reconstruction, renovation,	3305
repair, maintenance, and operation of any park, playground,	3306
playfield, indoor recreational facility, zoo, zoological park,	3307
bath, swimming pool, pond, water park, wading pool, wave pool,	3308
water slide, and other type of aquatic facility, or golf course;	3309

(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code; 3310  
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(w) A function that the general assembly mandates a political subdivision to perform. 3313  
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(D) "Law" means any provision of the constitution, statutes, or rules of the United States or of this state; provisions of charters, ordinances, resolutions, and rules of political subdivisions; and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply. 3315  
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(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code. 3321  
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(F) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under section 339.14 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, fire and ambulance district created pursuant to 3323  
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section 505.375 of the Revised Code, joint interstate emergency 3342  
planning district established by an agreement entered into under 3343  
that section, county solid waste management district and joint 3344  
solid waste management district established under section 343.01 3345  
or 343.012 of the Revised Code, and community school established 3346  
under Chapter 3314. of the Revised Code. 3347

(G)(1) "Proprietary function" means a function of a political 3348  
subdivision that is specified in division (G)(2) of this section 3349  
or that satisfies both of the following: 3350

(a) The function is not one described in division (C)(1)(a) 3351  
or (b) of this section and is not one specified in division (C)(2) 3352  
of this section; 3353

(b) The function is one that promotes or preserves the public 3354  
peace, health, safety, or welfare and that involves activities 3355  
that are customarily engaged in by nongovernmental persons. 3356  
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(2) A "proprietary function" includes, but is not limited to, 3358  
the following: 3359

(a) The operation of a hospital by one or more political 3360  
subdivisions; 3361

(b) The design, construction, reconstruction, renovation, 3362  
repair, maintenance, and operation of a public cemetery other than 3363  
a township cemetery; 3364

(c) The establishment, maintenance, and operation of a 3365  
utility, including, but not limited to, a light, gas, power, or 3366  
heat plant, a railroad, a busline or other transit company, an 3367  
airport, and a municipal corporation water supply system; 3368

(d) The maintenance, destruction, operation, and upkeep of a 3369  
sewer system; 3370

(e) The operation and control of a public stadium, 3371

auditorium, civic or social center, exhibition hall, arts and 3372  
crafts center, band or orchestra, or off-street parking facility. 3373

(H) ~~"Public roads" means public roads, highways, streets,~~ 3374  
~~avenues, alleys, and bridges within a political subdivision.~~ 3375  
~~"Public roads" does not include berms, shoulders, rights-of-way,~~ 3376  
~~or traffic control devices unless the traffic control devices are~~ 3377  
~~mandated by the Ohio manual of uniform traffic control devices.~~ 3378

(I) "State" means the state of Ohio, including, but not 3379  
limited to, the general assembly, the supreme court, the offices 3380  
of all elected state officers, and all departments, boards, 3381  
offices, commissions, agencies, colleges and universities, 3382  
institutions, and other instrumentalities of the state of Ohio. 3383  
"State" does not include political subdivisions. 3384

**Sec. 2744.02.** (A)(1) For the purposes of this chapter, the 3385  
functions of political subdivisions are hereby classified as 3386  
governmental functions and proprietary functions. Except as 3387  
provided in division (B) of this section, a political subdivision 3388  
is not liable in damages in a civil action for injury, death, or 3389  
loss to person or property allegedly caused by any act or omission 3390  
of the political subdivision or an employee of the political 3391  
subdivision in connection with a governmental or proprietary 3392  
function. 3393

(2) Subject to statutory limitations upon their monetary 3394  
jurisdiction, the courts of common pleas, the municipal courts, 3395  
and the county courts have jurisdiction to hear and determine 3396  
civil actions governed by or brought pursuant to this chapter. 3397

(B) Subject to sections 2744.03 and 2744.05 of the Revised 3398  
Code, a political subdivision is liable in damages in a civil 3399  
action for injury, death, or loss to person or property allegedly 3400  
caused by an act or omission of the political subdivision or of 3401  
any of its employees in connection with a governmental or 3402

proprietary function, as follows: 3403

(1) Except as otherwise provided in this division, political 3404  
subdivisions are liable for injury, death, or loss to person or 3405  
property caused by the negligent operation of any motor vehicle by 3406  
their employees upon the public roads, highways, or streets when 3407  
the employees are engaged within the scope of their employment and 3408  
authority. The following are full defenses to that liability: 3409

(a) A member of a municipal corporation police department or 3410  
any other police agency was operating a motor vehicle while 3411  
responding to an emergency call and the operation of the vehicle 3412  
did not constitute willful or wanton misconduct; 3413

(b) A member of a municipal corporation fire department or 3414  
any other firefighting agency was operating a motor vehicle while 3415  
engaged in duty at a fire, proceeding toward a place where a fire 3416  
is in progress or is believed to be in progress, or answering any 3417  
other emergency alarm and the operation of the vehicle did not 3418  
constitute willful or wanton misconduct; 3419

(c) A member of an emergency medical service owned or 3420  
operated by a political subdivision was operating a motor vehicle 3421  
while responding to or completing a call for emergency medical 3422  
care or treatment, the member was holding a valid commercial 3423  
driver's license issued pursuant to Chapter 4506. or a driver's 3424  
license issued pursuant to Chapter 4507. of the Revised Code, the 3425  
operation of the vehicle did not constitute willful or wanton 3426  
misconduct, and the operation complies with the precautions of 3427  
section 4511.03 of the Revised Code. 3428

(2) Except as otherwise provided in sections 3314.07 and 3429  
3746.24 of the Revised Code, political subdivisions are liable for 3430  
injury, death, or loss to person or property caused by the 3431  
negligent performance of acts by their employees with respect to 3432  
proprietary functions of the political subdivisions. 3433

(3) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by their ~~negligent~~ failure to keep public roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, or public grounds within the political subdivisions open, in repair ~~and other negligent failure to remove obstructions from public roads, and free from nuisance~~, except that it is a full defense to that liability, when a bridge within a municipal corporation is involved, that the municipal corporation does not have the responsibility for maintaining or inspecting the bridge.

(4) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property that is caused by the negligence of their employees and that occurs within or on the grounds of, ~~and is due to physical defects within or on the grounds of~~, buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses, but not including jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code.

(5) In addition to the circumstances described in divisions (B)(1) to (4) of this section, a political subdivision is liable for injury, death, or loss to person or property when liability is expressly imposed upon the political subdivision by a section of the Revised Code, including, but not limited to, sections 2743.02 and 5591.37 of the Revised Code. Liability shall not be construed to exist under another section of the Revised Code merely because ~~that section imposes a responsibility or mandatory duty~~ is imposed upon a political subdivision, ~~or~~ or because of a general authorization ~~in that section~~ that a political subdivision may sue and be sued, ~~or because that section uses the term "shall" in a~~

~~provision pertaining to a political subdivision.~~ 3466

~~(C) An order that denies a political subdivision or an 3467  
employee of a political subdivision the benefit of an alleged 3468  
immunity from liability as provided in Chapter 2744. or any other 3469  
provision of the law is a final order. 3470~~

**Sec. 2744.03.** (A) In a civil action brought against a 3471  
political subdivision or an employee of a political subdivision to 3472  
recover damages for injury, death, or loss to persons or property 3473  
allegedly caused by any act or omission in connection with a 3474  
governmental or proprietary function, the following defenses or 3475  
immunities may be asserted to establish nonliability: 3476

(1) The political subdivision is immune from liability if the 3477  
employee involved was engaged in the performance of a judicial, 3478  
quasi-judicial, prosecutorial, legislative, or quasi-legislative 3479  
function. 3480

(2) The political subdivision is immune from liability if the 3481  
conduct of the employee involved, other than negligent conduct, 3482  
that gave rise to the claim of liability was required by law or 3483  
authorized by law, or if the conduct of the employee involved that 3484  
gave rise to the claim of liability was necessary or essential to 3485  
the exercise of powers of the political subdivision or employee. 3486

(3) The political subdivision is immune from liability if the 3488  
action or failure to act by the employee involved that gave rise 3489  
to the claim of liability was within the discretion of the 3490  
employee with respect to policy-making, planning, or enforcement 3491  
powers by virtue of the duties and responsibilities of the office 3492  
or position of the employee. 3493

(4) The political subdivision is immune from liability if the 3494  
action or failure to act by the political subdivision or employee 3495  
involved that gave rise to the claim of liability resulted in 3496

injury or death to a person who had been convicted of or pleaded 3497  
guilty to a criminal offense and who, at the time of the injury or 3498  
death, was serving any portion of the person's sentence by 3499  
performing community service work for or in the political 3500  
subdivision whether pursuant to section 2951.02 of the Revised 3501  
Code or otherwise, or resulted in injury or death to a child who 3502  
was found to be a delinquent child and who, at the time of the 3503  
injury or death, was performing community service or community 3504  
work for or in a political subdivision in accordance with the 3505  
order of a juvenile court entered pursuant to section 2151.355 of 3506  
the Revised Code, and if, at the time of the person's or child's 3507  
injury or death, the person or child was covered for purposes of 3508  
Chapter 4123. of the Revised Code in connection with the community 3509  
service or community work for or in the political subdivision. 3510

(5) The political subdivision is immune from liability if the 3511  
injury, death, or loss to persons or property resulted from the 3512  
exercise of judgment or discretion in determining whether to 3513  
acquire, or how to use, equipment, supplies, materials, personnel, 3514  
facilities, and other resources unless the judgment or discretion 3515  
was exercised with malicious purpose, in bad faith, or in a wanton 3516  
or reckless manner. 3517  
3518

(6) In addition to any immunity or defense referred to in 3519  
division (A)(7) of this section and in circumstances not covered 3520  
by that division or sections 3314.07 and 3746.24 of the Revised 3521  
Code, the employee is immune from liability unless one of the 3522  
following applies: 3523

(a) The employee's acts or omissions were manifestly outside 3524  
the scope of the employee's employment or official 3525  
responsibilities; 3526

(b) The employee's acts or omissions were with malicious 3527  
purpose, in bad faith, or in a wanton or reckless manner; 3528

(c) Liability is expressly imposed upon the employee by a 3529  
section of the Revised Code. ~~Liability shall not be construed to~~ 3530  
~~exist under another section of the Revised Code merely because~~ 3531  
~~that section imposes a responsibility or mandatory duty upon an~~ 3532  
~~employee, because of a general authorization in that section that~~ 3533  
~~an employee may sue and be sued, or because the section uses the~~ 3534  
~~term "shall" in a provision pertaining to an employee.~~ 3535

(7) The political subdivision, and an employee who is a 3536  
county prosecuting attorney, city director of law, village 3537  
solicitor, or similar chief legal officer of a political 3538  
subdivision, an assistant of any such person, or a judge of a 3539  
court of this state is entitled to any defense or immunity 3540  
available at common law or established by the Revised Code. 3541

(B) Any immunity or defense conferred upon, or referred to in 3542  
connection with, an employee by division (A)(6) or (7) of this 3543  
section does not affect or limit any liability of a political 3544  
subdivision for an act or omission of the employee as provided in 3545  
section 2744.02 of the Revised Code. 3546

**Sec. 2744.04.** (A) An action against a political subdivision 3547  
to recover damages for injury, death, or loss to persons or 3548  
property allegedly caused by any act or omission in connection 3549  
with a governmental or proprietary function, whether brought as an 3550  
original action, cross-claim, counterclaim, third-party claim, or 3551  
claim for subrogation, shall be brought within two years after the 3552  
cause of action arose, or within any applicable shorter period of 3553  
time for bringing the action provided by the Revised Code. This 3554  
division applies to actions brought against political subdivisions 3555  
by all persons, governmental entities, and the state. 3556

(B) In the complaint filed in a civil action against a 3557  
political subdivision or an employee of a political subdivision to 3558  
recover damages for injury, death, or loss to persons or property 3559

allegedly caused by an act or omission in connection with a 3560  
governmental or proprietary function, whether filed in an original 3561  
action, cross-claim, counterclaim, third-party claim, or claim for 3562  
subrogation, the complainant shall include a demand for a judgment 3563  
for the damages that the judge in a nonjury trial or the jury in a 3564  
jury trial finds that the complainant is entitled to be awarded, 3565  
but shall not specify in that demand any monetary amount for 3566  
damages sought. 3567

**Sec. 2744.05.** Notwithstanding any other provisions of the 3568  
Revised Code or rules of a court to the contrary, in an action 3569  
against a political subdivision to recover damages for injury, 3570  
death, or loss to person or property caused by an act or omission 3571  
in connection with a governmental or proprietary function: 3572

(A) Punitive or exemplary damages shall not be awarded. 3573

(B)~~(1)~~ If a claimant receives or is entitled to receive 3574  
benefits for injuries or loss allegedly incurred from a policy or 3575  
policies of insurance or any other source, the benefits shall be 3576  
disclosed to the court, and the amount of the benefits shall be 3577  
deducted from any award against a political subdivision recovered 3578  
by that claimant. No insurer or other person is entitled to bring 3579  
an action under a subrogation provision in an insurance or other 3580  
contract against a political subdivision with respect to those 3581  
benefits. ~~The amount of the benefits shall be deducted from an~~ 3582  
~~award against a political subdivision under division (B)(1) of~~ 3583  
~~this section regardless of whether the claimant may be under an~~ 3584  
~~obligation to pay back the benefits upon recovery, in whole or in~~ 3585  
~~part, for the claim. A claimant whose benefits have been deducted~~ 3586  
~~from an award under division (B)(1) of this section is not~~ 3587  
~~considered fully compensated and shall not be required to~~ 3588  
~~reimburse a subrogated claim for benefits deducted from an award~~ 3589  
~~pursuant to division (B)(1) of this section.~~ 3590

~~(2)~~ Nothing in this division ~~(B)(1)~~ of ~~this~~ section shall be construed to do either of the following:

~~(a)(1)~~ Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

~~(b)(2)~~ Prohibit the department of job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under Chapter 5107., 5111., or 5115. of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person

on behalf of the person injured for medical care or treatment, for 3622  
rehabilitation services, or for other care, treatment, services, 3623  
products, or accommodations that were necessary because of the 3624  
injury; 3625

(c) All expenditures to be incurred in the future, as 3626  
determined by the court, by the person injured or another person 3627  
on behalf of the person injured for medical care or treatment, for 3628  
rehabilitation services, or for other care, treatment, services, 3629  
products, or accommodations that will be necessary because of the 3630  
injury; 3631

(d) All expenditures of a person whose property was injured 3632  
or destroyed or of another person on behalf of the person whose 3633  
property was injured or destroyed in order to repair or replace 3634  
the property that was injured or destroyed; 3635

(e) All expenditures of the person injured or of the person 3636  
whose property was injured or destroyed or of another person on 3637  
behalf of the person injured or of the person whose property was 3638  
injured or destroyed in relation to the actual preparation or 3639  
presentation of the claim involved; 3640

(f) Any other expenditures of the person injured or of the 3641  
person whose property was injured or destroyed or of another 3642  
person on behalf of the person injured or of the person whose 3643  
property was injured or destroyed that the court determines 3644  
represent an actual loss experienced because of the personal or 3645  
property injury or property loss. 3646

"The actual loss of the person who is awarded the damages" 3647  
does not include any fees paid or owed to an attorney for any 3648  
services rendered in relation to a personal or property injury or 3649  
property loss, and does not include any damages awarded for pain 3650  
and suffering, for the loss of society, consortium, companionship, 3651  
care, assistance, attention, protection, advice, guidance, 3652

counsel, instruction, training, or education of the person 3653  
injured, for mental anguish, or for any other intangible loss. 3654

**Sec. 2744.06.** (A) Real or personal property, and moneys, 3655  
accounts, deposits, or investments of a political subdivision are 3656  
not subject to execution, judicial sale, garnishment, or 3657  
attachment to satisfy a judgment rendered against a political 3658  
subdivision in a civil action to recover damages for injury, 3659  
death, or loss to ~~persons~~ person or property caused by an act or 3660  
omission of the political subdivision or any of its employees in 3661  
connection with a governmental or proprietary function. Such 3662  
judgments shall be paid from funds of the political subdivisions 3663  
that have been appropriated for that purpose, but, if sufficient 3664  
funds are not currently appropriated for the payment of judgments, 3665  
the fiscal officer of a political subdivision shall certify the 3666  
amount of any unpaid judgments to the taxing authority of the 3667  
political subdivision for inclusion in the next succeeding budget 3668  
and annual appropriation measure and payment in the next 3669  
succeeding fiscal year as provided by section 5705.08 of the 3670  
Revised Code, unless any such judgment is to be paid from the 3671  
proceeds of bonds issued pursuant to section 133.14 of the Revised 3672  
Code or pursuant to annual installments authorized by division (B) 3673  
or (C) of this section. 3674

(B)(1)(a) As used in this division, "the actual loss of the 3675  
person who is awarded the damages" includes all of the following: 3676

(i) All wages, salaries, or other compensation lost by the 3677  
person injured as a result of the injury, as of the date of the 3678  
judgment; 3679

(ii) All expenditures of the person injured or of another 3680  
person on ~~his~~ of the person injured for medical care or 3681  
treatment, for rehabilitation services, or for other care, 3682  
treatment, services, products, or accommodations that were 3683

necessary because of the injury;	3684
(iii) All expenditures of a person whose property was injured or destroyed or of another person on <del>his</del> behalf <u>of the person whose property was injured or destroyed</u> in order to repair or replace the property that was injured or destroyed;	3685 3686 3687 3688
(iv) All expenditures of the person injured or whose property was injured or destroyed or of another person on <del>his</del> behalf <u>of the person injured or whose property was injured or destroyed</u> in relation to the actual preparation or presentation of the person's claim;	3689 3690 3691 3692 3693
(v) Any other expenditures of the person injured or <del>of the person</del> whose property was injured or destroyed or of another person on <del>his</del> behalf <u>of the person injured or whose property was injured or destroyed</u> that the court determines represent an actual loss experienced because of the personal or property injury or property loss.	3694 3695 3696 3697 3698 3699
(b) As used in this division, "the actual loss of the person who is awarded the damages" does not include any of the following:	3700 3701
(i) Wages, salaries, or other compensation lost by the person injured as a result of the injury, that are future expected earnings of such a person;	3702 3703 3704
(ii) Expenditures to be incurred in the future, as determined by the court, by the person injured or by another person on <del>his</del> behalf <u>of the person injured</u> for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;	3705 3706 3707 3708 3709 3710
(iii) Any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss;	3711 3712 3713
(iv) Any damages awarded for pain and suffering, for the loss	3714

of society, consortium, companionship, care, assistance, 3715  
attention, protection, advice, guidance, counsel, instruction, 3716  
training, or education of the person injured, for mental anguish, 3717  
or for any other intangible loss. 3718

(2) Except as specifically provided to the contrary in this 3719  
division, a court that renders a judgment against a political 3720  
subdivision as described in division (A) of this section and that 3721  
is not in favor of the state may authorize the political 3722  
subdivision, upon the motion of the political subdivision, to pay 3723  
the judgment or a specified portion of the judgment in annual 3724  
installments over a period not to exceed ten years, subject to the 3725  
payment of interest at the rate specified in section 1343.03 of 3726  
the Revised Code. A court shall not authorize the payment in 3727  
installments under this division of any portion of a judgment or 3728  
entire judgment that represents the actual loss of the person who 3729  
is awarded the damages. 3730

Additionally, a court shall not authorize the payment in 3731  
installments under this division of any portion of a judgment or 3732  
entire judgment that does not represent the actual loss of the 3733  
person who is awarded the damages unless the court, after 3734  
balancing the interests of the political subdivision and of the 3735  
person in whose favor the judgment was rendered, determines that 3736  
installment payments would be appropriate under the circumstances 3737  
and would not be unjust to the person in whose favor the judgment 3738  
was rendered. If a court makes such a determination, it shall fix 3739  
the amount of the installment payments in such a manner as to 3740  
achieve for the person in whose favor the judgment was rendered, 3741  
the same economic result over the period as ~~he~~ that person would 3742  
have received if the judgment or portion of the judgment subject 3743  
to the installment payments had been paid in a lump sum payment. 3744

(C) At the option of a political subdivision, a judgment as 3745  
described in division (A) of this section and that is rendered in 3746

favor of the state may be paid in equal annual installments over a 3747  
period not to exceed ten years, without the payment of interest. 3748

**Sec. 3123.17.** (A) When a court issues or modifies a court 3749  
support order, the court shall determine the following: 3750

(1) Whether the obligor is in default under a prior court 3751  
support order or the court support order being modified; 3752

(2) If the obligor is in default, the date the court support 3753  
order went into default and the amount of support arrearages owed 3754  
pursuant to the default. 3755

If the court determines the obligor is in default under a 3756  
support order, the court shall issue a new order requiring the 3757  
obligor to pay support. If the court determines the default was 3758  
willful, the court shall assess interest on the arrearage amount 3759  
from the date the court specifies as the date of default to the 3760  
date the court issues the new order requiring the payment of 3761  
support and shall compute the interest at the rate specified in 3762  
~~division (A) of~~ section 1343.03 of the Revised Code. The court 3763  
shall specify in the support order the amount of interest the 3764  
court assessed against the obligor and incorporate the amount of 3765  
interest into the new monthly payment plan. 3766

(B) When a court issues or modifies a court support order, 3767  
the court may include in the support order a statement ordering 3768  
either party to pay the costs of the action, including, but not 3769  
limited to, attorney's fees, fees for genetic tests in contested 3770  
actions under sections 3111.01 to 3111.18 of the Revised Code, and 3771  
court costs. 3772

**Sec. 3722.08.** (A) If the director of health determines that 3773  
an adult care facility is in violation of this chapter or rules 3774  
adopted under it, ~~he~~ the director may impose a civil penalty, 3775  
pursuant to rules adopted by the public health council under this 3776

chapter, on the owner of the facility. The director shall 3777  
determine the classification and amount of the penalty by 3778  
considering the following factors: 3779

(1) The gravity of the violation, the severity of the actual 3780  
or potential harm, and the extent to which the provisions of this 3781  
chapter or rules adopted under it were violated; 3782

(2) Actions taken by the owner or manager to correct the 3783  
violation; 3784

(3) The number, if any, of previous violations by the adult 3785  
care facility. 3786

(B) The director shall give written notice of the order 3787  
imposing a civil penalty to the adult care facility by certified 3788  
mail, return receipt requested, or shall provide for delivery of 3789  
the notice in person. The notice shall specify the classification 3790  
of the violation as determined by rules adopted by the public 3791  
health council pursuant to this chapter, the amount of the penalty 3792  
and the rate of interest, the action that is required to be taken 3793  
to correct the violation, the time within which it is to be 3794  
corrected as specified in division (C) of this section, and the 3795  
procedures for the facility to follow to request a conference on 3796  
the order imposing a civil penalty. If the facility requests a 3797  
conference in a letter mailed or delivered not later than two 3798  
working days after it has received the notice, the director shall 3799  
hold a conference with representatives of the facility concerning 3800  
the civil penalty. The conference shall be held not later than 3801  
seven days after the director receives the request. The conference 3802  
shall be conducted as prescribed in division (C) of section 3803  
3722.07 of the Revised Code. If the director issues an order 3804  
upholding the civil penalty, the facility may request an 3805  
adjudication hearing pursuant to Chapter 119. of the Revised Code, 3806  
but the order of the director shall be in effect during 3807

proceedings instituted pursuant to that chapter until a final 3808  
adjudication is made. 3809

(C) The director shall order that the condition or practice 3810  
constituting a class I violation be abated or eliminated within 3811  
twenty-four hours or any longer period ~~he~~ that the director 3812  
considers reasonable. The notice for a class II or a class III 3813  
violation shall specify a time within which the violation is 3814  
required to be corrected. 3815

(D) If the facility does not request a conference or if, 3816  
after a conference, it fails to take action to correct a 3817  
violation, the director shall issue an order upholding the 3818  
penalty, plus interest at the rate specified in section 1343.03 of 3819  
the Revised Code for each day beyond the date set for payment of 3820  
the penalty. The director may waive the interest payment for the 3821  
period prior to the conference if ~~he~~ the director concludes that 3822  
the conference was necessitated by a legitimate dispute. 3823

(E) The director may cancel or reduce the penalty for a class 3824  
I violation if the facility corrects the violation within the time 3825  
specified in the notice unless a resident suffers physical harm 3826  
because of the violation or unless the facility has been cited 3827  
previously for the same violation, in which case the director 3828  
shall impose the penalty even though the facility has corrected 3829  
the violation. The director shall cancel the penalty for a class 3830  
II or class III violation if the facility corrects the violation 3831  
within the time specified in the notice unless the facility has 3832  
been cited previously for the same violation. Each day of a 3833  
violation of any class, after the date the director sets for 3834  
abatement or elimination, constitutes a separate and additional 3835  
violation. 3836

(F) If an adult care facility fails to pay a penalty imposed 3837  
under this section, the director may commence a civil action to 3838  
collect the penalty. The license of an adult care facility that 3839

has failed to pay a penalty imposed under this section shall not  
be renewed until the penalty has been paid.

(G) If a penalty is imposed under this section, a fine shall  
not be imposed under section 3722.99 of the Revised Code for the  
same violation.

(H) Notwithstanding any other division of this section, the  
director shall not impose a penalty for a class I violation if all  
of the following apply:

(1) A resident has not suffered physical harm because of the  
violation;

(2) The violation has been corrected and is no longer  
occurring;

(3) The violation is discovered by an inspector authorized to  
inspect an adult care facility pursuant to this chapter by ~~his~~ an  
examination of the records of the facility.

**Sec. 4112.02.** It shall be an unlawful discriminatory  
practice:

(A) For any employer, because of the race, color, religion,  
sex, national origin, disability, age, or ancestry of any person,  
to discharge without just cause, to refuse to hire, or otherwise  
to discriminate against that person with respect to hire, tenure,  
terms, conditions, or privileges of employment, or any matter  
directly or indirectly related to employment.

(B) For an employment agency or personnel placement service,  
because of race, color, religion, sex, national origin,  
disability, age, or ancestry, to do any of the following:

(1) Refuse or fail to accept, register, classify properly, or  
refer for employment, or otherwise discriminate against any  
person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

(C) For any labor organization to do any of the following:

(1) Limit or classify its membership on the basis of race, color, religion, sex, national origin, disability, age, or ancestry;

(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, national origin, disability, age, or ancestry.

(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.

(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, national origin, disability, age, or ancestry of an applicant for employment or membership;

(2) Make or keep a record of the race, color, religion, sex, national origin, disability, age, or ancestry of any applicant for employment or membership;

(3) Use any form of application for employment, or personnel 3899  
or membership blank, seeking to elicit information regarding race, 3900  
color, religion, sex, national origin, disability, age, or 3901  
ancestry; but an employer holding a contract containing a 3902  
nondiscrimination clause with the government of the United States, 3903  
or any department or agency of that government, may require an 3904  
employee or applicant for employment to furnish documentary proof 3905  
of United States citizenship and may retain that proof in the 3906  
employer's personnel records and may use photographic or 3907  
fingerprint identification for security purposes; 3908

(4) Print or publish or cause to be printed or published any 3909  
notice or advertisement relating to employment or membership 3910  
indicating any preference, limitation, specification, or 3911  
discrimination, based upon race, color, religion, sex, national 3912  
origin, disability, age, or ancestry; 3913

(5) Announce or follow a policy of denying or limiting, 3914  
through a quota system or otherwise, employment or membership 3915  
opportunities of any group because of the race, color, religion, 3916  
sex, national origin, disability, age, or ancestry of that group; 3917

(6) Utilize in the recruitment or hiring of persons any 3918  
employment agency, personnel placement service, training school or 3919  
center, labor organization, or any other employee-referring source 3920  
known to discriminate against persons because of their race, 3921  
color, religion, sex, national origin, disability, age, or 3922  
ancestry. 3923

(F) For any person seeking employment to publish or cause to 3924  
be published any advertisement that specifies or in any manner 3925  
indicates that person's race, color, religion, sex, national 3926  
origin, disability, age, or ancestry, or expresses a limitation or 3927  
preference as to the race, color, religion, sex, national origin, 3928  
disability, age, or ancestry of any prospective employer. 3929

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, national origin, disability, age, or ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, disability, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, familial status, ancestry, disability, or national origin;

(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or 3962  
conditions of selling, transferring, assigning, renting, leasing, 3963  
or subleasing any housing accommodations or in furnishing 3964  
facilities, services, or privileges in connection with the 3965  
ownership, occupancy, or use of any housing accommodations, 3966  
including the sale of fire, extended coverage, or homeowners 3967  
insurance, because of race, color, religion, sex, familial status, 3968  
ancestry, disability, or national origin or because of the racial 3969  
composition of the neighborhood in which the housing 3970  
accommodations are located; 3971

(5) Discriminate against any person in the terms or 3972  
conditions of any loan of money, whether or not secured by 3973  
mortgage or otherwise, for the acquisition, construction, 3974  
rehabilitation, repair, or maintenance of housing accommodations 3975  
because of race, color, religion, sex, familial status, ancestry, 3976  
disability, or national origin or because of the racial 3977  
composition of the neighborhood in which the housing 3978  
accommodations are located; 3979

(6) Refuse to consider without prejudice the combined income 3980  
of both husband and wife for the purpose of extending mortgage 3981  
credit to a married couple or either member of a married couple; 3982

(7) Print, publish, or circulate any statement or 3983  
advertisement, or make or cause to be made any statement or 3984  
advertisement, relating to the sale, transfer, assignment, rental, 3985  
lease, sublease, or acquisition of any housing accommodations, or 3986  
relating to the loan of money, whether or not secured by mortgage 3987  
or otherwise, for the acquisition, construction, rehabilitation, 3988  
repair, or maintenance of housing accommodations, that indicates 3989  
any preference, limitation, specification, or discrimination based 3990  
upon race, color, religion, sex, familial status, ancestry, 3991  
disability, or national origin, or an intention to make any such 3992  
preference, limitation, specification, or discrimination; 3993

(8) Except as otherwise provided in division (H)(8) or (17) 3994  
of this section, make any inquiry, elicit any information, make or 3995  
keep any record, or use any form of application containing 3996  
questions or entries concerning race, color, religion, sex, 3997  
familial status, ancestry, disability, or national origin in 3998  
connection with the sale or lease of any housing accommodations or 3999  
the loan of any money, whether or not secured by mortgage or 4000  
otherwise, for the acquisition, construction, rehabilitation, 4001  
repair, or maintenance of housing accommodations. Any person may 4002  
make inquiries, and make and keep records, concerning race, color, 4003  
religion, sex, familial status, ancestry, disability, or national 4004  
origin for the purpose of monitoring compliance with this chapter. 4005

(9) Include in any transfer, rental, or lease of housing 4006  
accommodations any restrictive covenant, or honor or exercise, or 4007  
attempt to honor or exercise, any restrictive covenant; 4008

(10) Induce or solicit, or attempt to induce or solicit, a 4009  
housing accommodations listing, sale, or transaction by 4010  
representing that a change has occurred or may occur with respect 4011  
to the racial, religious, sexual, familial status, or ethnic 4012  
composition of the block, neighborhood, or other area in which the 4013  
housing accommodations are located, or induce or solicit, or 4014  
attempt to induce or solicit, a housing accommodations listing, 4015  
sale, or transaction by representing that the presence or 4016  
anticipated presence of persons of any race, color, religion, sex, 4017  
familial status, ancestry, disability, or national origin, in the 4018  
block, neighborhood, or other area will or may have results 4019  
including, but not limited to, the following: 4020

(a) The lowering of property values; 4021

(b) A change in the racial, religious, sexual, familial 4022  
status, or ethnic composition of the block, neighborhood, or other 4023  
area; 4024

(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;	4025 4026
(d) A decline in the quality of the schools serving the block, neighborhood, or other area.	4027 4028
(11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, familial status, national origin, disability, or ancestry;	4029 4030 4031 4032 4033 4034 4035 4036
(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;	4037 4038 4039 4040 4041
(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, familial status, or ethnic composition;	4042 4043 4044 4045 4046
(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, familial status, age, ancestry, disability, or national origin of any prospective owner or user of the lot;	4047 4048 4049 4050 4051
(15) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or renter because of a disability of any of the following:	4052 4053 4054
(a) The buyer or renter;	4055

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(15)(b) of this section.

(16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:

(a) That person;

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(16)(b) of this section.

(17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:

(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with

disabilities or persons with a particular type of disability;	4086
(c) An inquiry to determine whether an applicant is qualified	4087
for a priority available to persons with disabilities or persons	4088
with a particular type of disability;	4089
(d) An inquiry to determine whether an applicant currently	4090
uses a controlled substance in violation of section 2925.11 of the	4091
Revised Code or a substantively comparable municipal ordinance;	4092
(e) An inquiry to determine whether an applicant at any time	4093
has been convicted of or pleaded guilty to any offense, an element	4094
of which is the illegal sale, offer to sell, cultivation,	4095
manufacture, other production, shipment, transportation, delivery,	4096
or other distribution of a controlled substance.	4097
(18)(a) Refuse to permit, at the expense of a person with a	4098
disability, reasonable modifications of existing housing	4099
accommodations that are occupied or to be occupied by the person	4100
with a disability, if the modifications may be necessary to afford	4101
the person with a disability full enjoyment of the housing	4102
accommodations. This division does not preclude a landlord of	4103
housing accommodations that are rented or to be rented to a	4104
disabled tenant from conditioning permission for a proposed	4105
modification upon the disabled tenant's doing one or more of the	4106
following:	4107
(i) Providing a reasonable description of the proposed	4108
modification and reasonable assurances that the proposed	4109
modification will be made in a workerlike manner and that any	4110
required building permits will be obtained prior to the	4111
commencement of the proposed modification;	4112
(ii) Agreeing to restore at the end of the tenancy the	4113
interior of the housing accommodations to the condition they were	4114
in prior to the proposed modification, but subject to reasonable	4115
wear and tear during the period of occupancy, if it is reasonable	4116

for the landlord to condition permission for the proposed 4117  
modification upon the agreement; 4118

(iii) Paying into an interest-bearing escrow account that is 4119  
in the landlord's name, over a reasonable period of time, a 4120  
reasonable amount of money not to exceed the projected costs at 4121  
the end of the tenancy of the restoration of the interior of the 4122  
housing accommodations to the condition they were in prior to the 4123  
proposed modification, but subject to reasonable wear and tear 4124  
during the period of occupancy, if the landlord finds the account 4125  
reasonably necessary to ensure the availability of funds for the 4126  
restoration work. The interest earned in connection with an escrow 4127  
account described in this division shall accrue to the benefit of 4128  
the disabled tenant who makes payments into the account. 4129  
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(b) A landlord shall not condition permission for a proposed 4131  
modification upon a disabled tenant's payment of a security 4132  
deposit that exceeds the customarily required security deposit of 4133  
all tenants of the particular housing accommodations. 4134

(19) Refuse to make reasonable accommodations in rules, 4135  
policies, practices, or services when necessary to afford a person 4136  
with a disability equal opportunity to use and enjoy a dwelling 4137  
unit, including associated public and common use areas; 4138

(20) Fail to comply with the standards and rules adopted 4139  
under division (A) of section 3781.111 of the Revised Code; 4140

(21) Discriminate against any person in the selling, 4141  
brokering, or appraising of real property because of race, color, 4142  
religion, sex, familial status, ancestry, disability, or national 4143  
origin; 4144

(22) Fail to design and construct covered multifamily 4145  
dwellings for first occupancy on or after June 30, 1992, in 4146  
accordance with the following conditions: 4147

(a) The dwellings shall have at least one building entrance 4148  
on an accessible route, unless it is impractical to do so because 4149  
of the terrain or unusual characteristics of the site. 4150

(b) With respect to dwellings that have a building entrance 4151  
on an accessible route, all of the following apply: 4152

(i) The public use areas and common use areas of the 4153  
dwellings shall be readily accessible to and usable by persons 4154  
with a disability. 4155

(ii) All the doors designed to allow passage into and within 4156  
all premises shall be sufficiently wide to allow passage by 4157  
persons with a disability who are in wheelchairs. 4158

(iii) All premises within covered multifamily dwelling units 4159  
shall contain an accessible route into and through the dwelling; 4160  
all light switches, electrical outlets, thermostats, and other 4161  
environmental controls within such units shall be in accessible 4162  
locations; the bathroom walls within such units shall contain 4163  
reinforcements to allow later installation of grab bars; and the 4164  
kitchens and bathrooms within such units shall be designed and 4165  
constructed in a manner that enables an individual in a wheelchair 4166  
to maneuver about such rooms. 4167

For purposes of division (H)(22) of this section, "covered 4168  
multifamily dwellings" means buildings consisting of four or more 4169  
units if such buildings have one or more elevators and ground 4170  
floor units in other buildings consisting of four or more units. 4171

(I) For any person to discriminate in any manner against any 4172  
other person because that person has opposed any unlawful 4173  
discriminatory practice defined in this section or because that 4174  
person has made a charge, testified, assisted, or participated in 4175  
any manner in any investigation, proceeding, or hearing under 4176  
sections 4112.01 to 4112.07 of the Revised Code. 4177

(J) For any person to aid, abet, incite, compel, or coerce 4178

the doing of any act declared by this section to be an unlawful  
discriminatory practice, to obstruct or prevent any person from  
complying with this chapter or any order issued under it, or to  
attempt directly or indirectly to commit any act declared by this  
section to be an unlawful discriminatory practice.

(K)(1) Nothing in division (H) of this section shall bar any  
religious or denominational institution or organization, or any  
nonprofit charitable or educational organization that is operated,  
supervised, or controlled by or in connection with a religious  
organization, from limiting the sale, rental, or occupancy of  
housing accommodations that it owns or operates for other than a  
commercial purpose to persons of the same religion, or from giving  
preference in the sale, rental, or occupancy of such housing  
accommodations to persons of the same religion, unless membership  
in the religion is restricted on account of race, color, or  
national origin.

(2) Nothing in division (H) of this section shall bar any  
bona fide private or fraternal organization that, incidental to  
its primary purpose, owns or operates lodgings for other than a  
commercial purpose, from limiting the rental or occupancy of the  
lodgings to its members or from giving preference to its members.

(3) Nothing in division (H) of this section limits the  
applicability of any reasonable local, state, or federal  
restrictions regarding the maximum number of occupants permitted  
to occupy housing accommodations. Nothing in that division  
prohibits the owners or managers of housing accommodations from  
implementing reasonable occupancy standards based on the number  
and size of sleeping areas or bedrooms and the overall size of a  
dwelling unit, provided that the standards are not implemented to  
circumvent the purposes of this chapter and are formulated,  
implemented, and interpreted in a manner consistent with this  
chapter and any applicable local, state, or federal restrictions

regarding the maximum number of occupants permitted to occupy 4211  
housing accommodations. 4212

(4) Nothing in division (H) of this section requires that 4213  
housing accommodations be made available to an individual whose 4214  
tenancy would constitute a direct threat to the health or safety 4215  
of other individuals or whose tenancy would result in substantial 4216  
physical damage to the property of others. 4217

(5) Nothing in division (H) of this section pertaining to 4218  
discrimination on the basis of familial status shall be construed 4219  
to apply to any of the following: 4220

(a) Housing accommodations provided under any state or 4221  
federal program that have been determined under the "Fair Housing 4222  
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 4223  
amended, to be specifically designed and operated to assist 4224  
elderly persons; 4225

(b) Housing accommodations intended for and solely occupied 4226  
by persons who are sixty-two years of age or older; 4227

(c) Housing accommodations intended and operated for 4228  
occupancy by at least one person who is fifty-five years of age or 4229  
older per unit, as determined under the "Fair Housing Amendments 4230  
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 4231

(L) Nothing in divisions (A) to (E) of this section shall be 4232  
construed to require a person with a disability to be employed or 4233  
trained under circumstances that would significantly increase the 4234  
occupational hazards affecting either the person with a 4235  
disability, other employees, the general public, or the facilities 4236  
in which the work is to be performed, or to require the employment 4237  
or training of a person with a disability in a job that requires 4238  
the person with a disability routinely to undertake any task, the 4239  
performance of which is substantially and inherently impaired by 4240  
the person's disability. 4241

(M) Nothing in divisions (H)(1) to (18) of this section shall  
be construed to require any person selling or renting property to  
modify the property in any way or to exercise a higher degree of  
care for a person with a disability, to relieve any person with a  
disability of any obligation generally imposed on all persons  
regardless of disability in a written lease, rental agreement, or  
contract of purchase or sale, or to forbid distinctions based on  
the inability to fulfill the terms and conditions, including  
financial obligations, of the lease, agreement, or contract.

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(N) An aggrieved individual may enforce the individual's  
rights relative to discrimination on the basis of age as provided  
for in this section by instituting a civil action, within ~~two~~  
years one hundred eighty days after the alleged unlawful  
discriminatory practice occurred, in any court with jurisdiction  
for any legal or equitable relief that will effectuate the  
individual's rights.

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A person who files a civil action under this division is  
barred, with respect to the practices complained of, from  
instituting a civil action under section 4112.14 of the Revised  
Code and from filing a charge with the commission under section  
4112.05 of the Revised Code.

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(O) With regard to age, it shall not be an unlawful  
discriminatory practice and it shall not constitute a violation of  
division (A) of section 4112.14 of the Revised Code for any  
employer, employment agency, joint labor-management committee  
controlling apprenticeship training programs, or labor  
organization to do any of the following:

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(1) Establish bona fide employment qualifications reasonably  
related to the particular business or occupation that may include  
standards for skill, aptitude, physical capability, intelligence,  
education, maturation, and experience;

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(2) Observe the terms of a bona fide seniority system or any 4274  
bona fide employee benefit plan, including, but not limited to, a 4275  
retirement, pension, or insurance plan, that is not a subterfuge 4276  
to evade the purposes of this section. However, no such employee 4277  
benefit plan shall excuse the failure to hire any individual, and 4278  
no such seniority system or employee benefit plan shall require or 4279  
permit the involuntary retirement of any individual, because of 4280  
the individual's age except as provided for in the "Age 4281  
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 4282  
29 U.S.C.A. 623, as amended by the "Age Discrimination in 4283  
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 4284  
623, as amended. 4285

(3) Retire an employee who has attained sixty-five years of 4286  
age who, for the two-year period immediately before retirement, is 4287  
employed in a bona fide executive or a high policymaking position, 4288  
if the employee is entitled to an immediate nonforfeitable annual 4289  
retirement benefit from a pension, profit-sharing, savings, or 4290  
deferred compensation plan, or any combination of those plans, of 4291  
the employer of the employee, which equals, in the aggregate, at 4292  
least forty-four thousand dollars, in accordance with the 4293  
conditions of the "Age Discrimination in Employment Act Amendment 4294  
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 4295  
Discrimination in Employment Act Amendments of 1986," 100 Stat. 4296  
3342, 29 U.S.C.A. 631, as amended; 4297

(4) Observe the terms of any bona fide apprenticeship program 4298  
if the program is registered with the Ohio apprenticeship council 4299  
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 4300  
approved by the federal committee on apprenticeship of the United 4301  
States department of labor. 4302

(P) Nothing in this chapter prohibiting age discrimination 4303  
and nothing in division (A) of section 4112.14 of the Revised Code 4304  
shall be construed to prohibit the following: 4305

(1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code;

(2) The mandatory retirement of uniformed patrol officers of the state highway patrol as provided in section 5505.16 of the Revised Code;

(3) The maximum age requirements for appointment as a patrol officer in the state highway patrol established by section 5503.01 of the Revised Code;

(4) The maximum age requirements established for original appointment to a police department or fire department in sections 124.41 and 124.42 of the Revised Code;

(5) Any maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter;

(6) Any mandatory retirement provision not in conflict with federal law of a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters;

(7) Until January 1, 1994, the mandatory retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a).

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this section, for purposes of divisions (A) to (E) of this section, a disability does not include any physiological disorder or condition, mental or psychological disorder, or disease or

condition caused by an illegal use of any controlled substance by 4337  
an employee, applicant, or other person, if an employer, 4338  
employment agency, personnel placement service, labor 4339  
organization, or joint labor-management committee acts on the 4340  
basis of that illegal use. 4341

(b) Division (Q)(1)(a) of this section does not apply to an 4342  
employee, applicant, or other person who satisfies any of the 4343  
following: 4344

(i) The employee, applicant, or other person has successfully 4345  
completed a supervised drug rehabilitation program and no longer 4346  
is engaging in the illegal use of any controlled substance, or the 4347  
employee, applicant, or other person otherwise successfully has 4348  
been rehabilitated and no longer is engaging in that illegal use. 4349  
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(ii) The employee, applicant, or other person is 4351  
participating in a supervised drug rehabilitation program and no 4352  
longer is engaging in the illegal use of any controlled substance. 4353

(iii) The employee, applicant, or other person is erroneously 4354  
regarded as engaging in the illegal use of any controlled 4355  
substance, but the employee, applicant, or other person is not 4356  
engaging in that illegal use. 4357

(2) Divisions (A) to (E) of this section do not prohibit an 4358  
employer, employment agency, personnel placement service, labor 4359  
organization, or joint labor-management committee from doing any 4360  
of the following: 4361

(a) Adopting or administering reasonable policies or 4362  
procedures, including, but not limited to, testing for the illegal 4363  
use of any controlled substance, that are designed to ensure that 4364  
an individual described in division (Q)(1)(b)(i) or (ii) of this 4365  
section no longer is engaging in the illegal use of any controlled 4366  
substance; 4367

(b) Prohibiting the illegal use of controlled substances and 4368  
the use of alcohol at the workplace by all employees; 4369

(c) Requiring that employees not be under the influence of 4370  
alcohol or not be engaged in the illegal use of any controlled 4371  
substance at the workplace; 4372

(d) Requiring that employees behave in conformance with the 4373  
requirements established under "The Drug-Free Workplace Act of 4374  
1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 4375

(e) Holding an employee who engages in the illegal use of any 4376  
controlled substance or who is an alcoholic to the same 4377  
qualification standards for employment or job performance, and the 4378  
same behavior, to which the employer, employment agency, personnel 4379  
placement service, labor organization, or joint labor-management 4380  
committee holds other employees, even if any unsatisfactory 4381  
performance or behavior is related to an employee's illegal use of 4382  
a controlled substance or alcoholism; 4383

(f) Exercising other authority recognized in the "Americans 4384  
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 4385  
as amended, including, but not limited to, requiring employees to 4386  
comply with any applicable federal standards. 4387

(3) For purposes of this chapter, a test to determine the 4388  
illegal use of any controlled substance does not include a medical 4389  
examination. 4390

(4) Division (Q) of this section does not encourage, 4391  
prohibit, or authorize, and shall not be construed as encouraging, 4392  
prohibiting, or authorizing, the conduct of testing for the 4393  
illegal use of any controlled substance by employees, applicants, 4394  
or other persons, or the making of employment decisions based on 4395  
the results of that type of testing. 4396

**Sec. 4112.14.** (A) No employer shall discriminate in any job 4397

opening against any applicant or discharge without just cause any 4398  
employee aged forty or older who is physically able to perform the 4399  
duties and otherwise meets the established requirements of the job 4400  
and laws pertaining to the relationship between employer and 4401  
employee. 4402

(B) Any person aged forty or older who is discriminated 4403  
against in any job opening or discharged without just cause by an 4404  
employer in violation of division (A) of this section may 4405  
institute a civil action against the employer in a court of 4406  
competent jurisdiction. If the court finds that an employer has 4407  
discriminated on the basis of age, the court shall order an 4408  
appropriate remedy which shall include reimbursement to ~~him~~ the 4409  
applicant or employee for the costs, including reasonable ~~attorney~~ 4410  
attorney's fees, of the action, or to reinstate the employee in 4411  
~~his~~ the employee's former position with compensation for lost 4412  
wages and any lost fringe benefits from the date of the illegal 4413  
discharge and to reimburse ~~him~~ the employee for the costs, 4414  
including reasonable ~~attorney~~ attorney's fees, of the action. The 4415  
remedies available under this section are coexistent with remedies 4416  
available pursuant to sections 4112.01 to 4112.11 of the Revised 4417  
Code; except that any person instituting a civil action under this 4418  
section is, with respect to the practices complained of, thereby 4419  
barred from instituting a civil action under division (N) of 4420  
section 4112.02 of the Revised Code or from filing a charge with 4421  
the Ohio civil rights commission under section 4112.05 of the 4422  
Revised Code. 4423

(C) The cause of action described in division (B) of this 4424  
section and any remedies available pursuant to sections 4112.01 to 4425  
4112.11 of the Revised Code shall not be available in the case of 4426  
discharges where the employee has available to ~~him~~ the employee 4427  
the opportunity to arbitrate the discharge or where a discharge 4428  
has been arbitrated and has been found to be for just cause. 4429

Sec. 4112.99. Whoever violates this chapter is subject to a 4430  
civil action for damages, injunctive relief, or any other 4431  
appropriate relief. 4432

Sec. 4113.52. (A)(1)(a) If an employee becomes aware in the 4433  
course of ~~his~~ the employee's employment of a violation of any 4434  
state or federal statute or any ordinance or regulation of a 4435  
political subdivision that ~~his~~ the employee's employer has 4436  
authority to correct, and the employee reasonably believes that 4437  
the violation either is a criminal offense that is likely to cause 4438  
an imminent risk of physical harm to persons or a hazard to public 4439  
health or safety or is a felony, the employee orally shall notify 4440  
~~his~~ the employee's supervisor or other responsible officer of ~~his~~ 4441  
the employee's employer of the violation and subsequently shall 4442  
file with that supervisor or officer a written report that 4443  
provides sufficient detail to identify and describe the violation. 4444  
If the employer does not correct the violation or make a 4445  
reasonable and good faith effort to correct the violation within 4446  
twenty-four hours after the oral notification or the receipt of 4447  
the report, whichever is earlier, the employee may file a written 4448  
report that provides sufficient detail to identify and describe 4449  
the violation with the prosecuting authority of the county or 4450  
municipal corporation where the violation occurred, with a peace 4451  
officer, with the inspector general if the violation is within ~~his~~ 4452  
the inspector general's jurisdiction, or with any other 4453  
appropriate public official or agency that has regulatory 4454  
authority over the employer and the industry, trade, or business 4455  
in which ~~he~~ the employer is engaged. 4456

(b) If an employee makes a report under division (A)(1)(a) of 4457  
this section, the employer, within twenty-four hours after the 4458  
oral notification was made or the report was received or by the 4459  
close of business on the next regular business day following the 4460

day on which the oral notification was made or the report was 4461  
received, whichever is later, shall notify the employee, in 4462  
writing, of any effort of the employer to correct the alleged 4463  
violation or hazard or of the absence of the alleged violation or 4464  
hazard. 4465

(2) If an employee becomes aware in the course of ~~his~~ the 4466  
employee's employment of a violation of chapter 3704., 3734., 4467  
6109., Or 6111. Of the revised code that is a criminal offense, 4468  
the employee directly may notify, either orally or in writing, any 4469  
appropriate public official or agency that has regulatory 4470  
authority over the employer and the industry, trade, or business 4471  
in which ~~he~~ the employer is engaged. 4472

(3) If an employee becomes aware in the course of ~~his~~ the 4473  
employee's employment of a violation by a fellow employee of any 4474  
state or federal statute, any ordinance or regulation of a 4475  
political subdivision, or any work rule or company policy of ~~his~~ 4476  
the employee's employer and the employee reasonably believes that 4477  
the violation either is a criminal offense that is likely to cause 4478  
an imminent risk of physical harm to persons or a hazard to public 4479  
health or safety or is a felony, the employee orally shall notify 4480  
~~his~~ the employee's supervisor or other responsible officer of ~~his~~ 4481  
the employee's employer of the violation and subsequently shall 4482  
file with that supervisor or officer a written report that 4483  
provides sufficient detail to identify and describe the violation. 4484

(B) Except as otherwise provided in division (C) of this 4485  
section, no employer shall take any disciplinary or retaliatory 4486  
action against an employee for making any report authorized by 4487  
division (A)(1) or (2) of this section, or as a result of the 4488  
employee's having made any inquiry or taken any other action to 4489  
ensure the accuracy of any information reported under either such 4490  
division. No employer shall take any disciplinary or retaliatory 4491  
action against an employee for making any report authorized by 4492

division (A)(3) of this section if the employee made a reasonable  
and good faith effort to determine the accuracy of any information  
so reported, or as a result of the employee's having made any  
inquiry or taken any other action to ensure the accuracy of any  
information reported under that division. For purposes of this  
division, disciplinary or retaliatory action by the employer  
includes, without limitation, doing any of the following:

(1) Removing or suspending the employee from employment;

(2) Withholding from the employee salary increases or  
employee benefits to which the employee is otherwise entitled;

(3) Transferring or reassigning the employee;

(4) Denying the employee a promotion that otherwise would  
have been received;

(5) Reducing the employee in pay or position.

(C) An employee shall make a reasonable and good faith effort  
to determine the accuracy of any information reported under  
division (A)(1) or (2) of this section. If the employee who makes  
a report under either division fails to make such an effort, ~~he~~  
the employee may be subject to disciplinary action by ~~his~~ the  
employee's employer, including suspension or removal, for  
reporting information without a reasonable basis to do so under  
division (A)(1) or (2) of this section.

(D) If an employer takes any disciplinary or retaliatory  
action against an employee as a result of the employee's having  
filed a report under division (A) of this section, the employee  
may bring a civil action for appropriate injunctive relief or for  
the remedies set forth in division (E) of this section, or both,  
within one hundred eighty days after the date the disciplinary or  
retaliatory action was taken, in a court of common pleas in  
accordance with the Rules of Civil Procedure. A civil action under  
this division is not available to an employee as a remedy for any

disciplinary or retaliatory action taken by an appointing 4524  
authority against the employee as a result of the employee's 4525  
having filed a report under division (A) of section 124.341 of the 4526  
Revised Code. 4527

(E) The court, in rendering a judgment for the employee in an 4528  
action brought pursuant to division (D) of this section, may 4529  
order, as it determines appropriate, reinstatement of the employee 4530  
to the same position ~~he~~ that the employee held at the time of the 4531  
disciplinary or retaliatory action and at the same site of 4532  
employment or to a comparable position at that site, the payment 4533  
of back wages, full reinstatement of fringe benefits and seniority 4534  
rights, or any combination of these remedies. The court also may 4535  
award the prevailing party all or a portion of the costs of 4536  
litigation<sup>7</sup> and, if the employee who brought the action prevails 4537  
in the action, may award the prevailing employee reasonable 4538  
attorney's fees, witness fees, and fees for experts who testify at 4539  
trial, in an amount the court determines appropriate. If the court 4540  
determines that an employer deliberately has violated division (B) 4541  
of this section, the court, in making an award of back pay, may 4542  
include interest at the rate specified in section 1343.03 of the 4543  
Revised Code. 4544

(F) Any report filed with the inspector general under this 4545  
section shall be filed as a complaint in accordance with section 4546  
121.46 of the Revised Code. 4547

**Sec. 4171.10.** The express assumption of risk set forth in 4548  
section 4171.09 of the Revised Code shall serve as a complete 4549  
defense to a suit against an operator by a roller skater for 4550  
injuries resulting from the assumed risks of roller skating. The 4551  
comparative negligence provisions of section 2315.19 of the 4552  
Revised Code shall not apply unless the operator has breached ~~his~~ 4553  
the operator's duties pursuant to sections 4171.06 and 4171.07 of 4554

the Revised Code. 4555

**Sec. 4399.18.** Notwithstanding section 2307.60 of the Revised 4556  
Code and except as otherwise provided in this section and in 4557  
section 4399.01 of the Revised Code, no person, and no executor or 4558  
administrator of the person, who suffers personal injury, death, 4559  
or property damage as a result of the actions of an intoxicated 4560  
person has a cause of action against any liquor permit holder or 4561  
~~his~~ an employee of a liquor permit holder who sold beer or 4562  
intoxicating liquor to the intoxicated person unless the injury, 4563  
death, or property damage occurred on the permit holder's premises 4564  
or in a parking lot under ~~his~~ the control of the permit holder and 4565  
was proximately caused by the negligence of the permit holder or 4566  
~~his employees~~ an employee of the permit holder. A person has a 4567  
cause of action against a permit holder or ~~his~~ an employee of a 4568  
permit holder for personal injury, death, or property damage 4569  
caused by the negligent actions of an intoxicated person occurring 4570  
off the premises or away from a parking lot under the permit 4571  
holder's control only when both of the following can be shown by a 4572  
preponderance of the evidence: 4573

(A) The permit holder or ~~his~~ an employee of the permit holder 4574  
knowingly sold an intoxicating beverage to at least one of the 4575  
following: 4576

(1) A noticeably intoxicated person in violation of division 4577  
(B) of section 4301.22 of the Revised Code; 4578

(2) A person in violation of division (C) of section 4301.22 4579  
of the Revised Code; 4580

(3) A person in violation of section 4301.69 of the Revised 4581  
Code; 4582

(B) The person's intoxication proximately caused the personal 4583  
injury, death, or property damage. 4584

Notwithstanding sections 4399.02 and 4399.05 of the Revised Code, no person, and no executor or administrator of the person, who suffers personal injury, death, or property damage as a result of the actions of an intoxicated person has a cause of action against the owner of a building or premises who rents or leases the building or premises to a liquor permit holder against whom a cause of action may be brought under this section, except when the owner and the permit holder are the same person.

**Sec. 4507.07.** (A) The registrar of motor vehicles shall not grant the application of any minor under eighteen years of age for a probationary license, a restricted license, or a temporary instruction permit, unless the application is signed by one of the minor's parents, the minor's guardian, another person having custody of the applicant, or, if there is no parent or guardian, a responsible person who is willing to assume the obligation imposed under this section.

At the time a minor under eighteen years of age submits an application for a license or permit at a driver's license examining station, the adult who signs the application shall present identification establishing that the adult is the individual whose signature appears on the application. The registrar shall prescribe, by rule, the types of identification that are suitable for the purposes of this paragraph. If the adult who signs the application does not provide identification as required by this paragraph, the application shall not be accepted.

When a minor under eighteen years of age applies for a probationary license, a restricted license, or a temporary instruction permit, the registrar shall give the adult who signs the application notice of the potential liability that may be imputed to the adult pursuant to division (B) of this section and notice of how the adult may prevent any liability from being

imputed to the adult pursuant to that division. 4616

(B) Any negligence, or willful or wanton misconduct, that is 4617  
committed by a minor under eighteen years of age when driving a 4618  
motor vehicle upon a highway shall be imputed to the person who 4619  
has signed the application of the minor for a probationary 4620  
license, restricted license, or temporary instruction permit, 4621  
which person shall be jointly and severally liable with the minor 4622  
for any damages caused by the negligence or the willful or wanton 4623  
misconduct. This joint and several liability is not subject to 4624  
division (D) of section 2315.19, ~~division (F) of section 2315.20,~~ 4625  
~~or division (B) of section 2307.31~~ of the Revised Code with 4626  
respect to a negligence ~~or other tort~~ claim that otherwise is 4627  
subject to ~~any of those sections~~ that section. 4628

There shall be no imputed liability imposed under this 4629  
division if a minor under eighteen years of age has proof of 4630  
financial responsibility with respect to the operation of a motor 4631  
vehicle owned by the minor or, if the minor is not the owner of a 4632  
motor vehicle, with respect to the minor's operation of any motor 4633  
vehicle, in the form and in the amounts required under Chapter 4634  
4509. of the Revised Code. 4635

(C) Any person who has signed the application of a minor 4636  
under eighteen years of age for a license or permit subsequently 4637  
may surrender to the registrar the license or temporary 4638  
instruction permit of the minor and request that the license or 4639  
permit be canceled. The registrar then shall cancel the license or 4640  
temporary instruction permit, and the person who signed the 4641  
application of the minor shall be relieved from the liability 4642  
imposed by division (B) of this section. 4643

(D) Any minor under eighteen years of age whose probationary 4644  
license, restricted license, or temporary instruction permit is 4645  
surrendered to the registrar by the person who signed the 4646  
application for the license or permit and whose license or 4647

temporary instruction permit subsequently is canceled by the 4648  
registrar may obtain a new license or temporary instruction permit 4649  
without having to undergo the examinations otherwise required by 4650  
sections 4507.11 and 4507.12 of the Revised Code and without 4651  
having to tender the fee for that license or temporary instruction 4652  
permit, if the minor is able to produce another parent, guardian, 4653  
other person having custody of the minor, or other adult, and that 4654  
adult is willing to assume the liability imposed under division 4655  
(B) of this section. That adult shall comply with the procedures 4656  
contained in division (A) of this section. 4657

**Sec. 4513.263.** (A) As used in this section and in section 4658  
4513.99 of the Revised Code: 4659

(1) "Automobile" means any commercial tractor, passenger car, 4660  
commercial car, or truck that is required to be factory-equipped 4661  
with an occupant restraining device for the operator or any 4662  
passenger by regulations adopted by the United States secretary of 4663  
transportation pursuant to the "National Traffic and Motor Vehicle 4664  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 4665

(2) "Occupant restraining device" means a seat safety belt, 4666  
shoulder belt, harness, or other safety device for restraining a 4667  
person who is an operator of or passenger in an automobile and 4668  
that satisfies the minimum federal vehicle safety standards 4669  
established by the United States department of transportation. 4670  
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(3) "Passenger" means any person in an automobile, other than 4672  
its operator, who is occupying a seating position for which an 4673  
occupant restraining device is provided. 4674

(4) "Commercial tractor," "passenger car," and "commercial 4675  
car" have the same meanings as in section 4501.01 of the Revised 4676  
Code. 4677

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

~~(6) "Manufacturer" and "supplier" have the same meanings as in section 2307.71 of the Revised Code.~~

~~(7) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim but does not include a civil action for damages for a breach of contract or another agreement between persons.~~

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a 4708  
person who is required by section 4511.81 of the Revised Code to 4709  
be secured in a child restraint device. Division (B)(1) of this 4710  
section does not apply to a person who is an employee of the 4711  
United States postal service or of a newspaper home delivery 4712  
service, during any period in which the person is engaged in the 4713  
operation of an automobile to deliver mail or newspapers to 4714  
addressees. Divisions (B)(1) and (3) of this section do not apply 4715  
to a person who has an affidavit signed by a physician licensed to 4716  
practice in this state under Chapter 4731. of the Revised Code or 4717  
a chiropractor licensed to practice in this state under Chapter 4718  
4734. of the Revised Code that states that the person has a 4719  
physical impairment that makes use of an occupant restraining 4720  
device impossible or impractical. 4721

(D) Notwithstanding any provision of law to the contrary, no 4722  
law enforcement officer shall cause an operator of an automobile 4723  
being operated on any street or highway to stop the automobile for 4724  
the sole purpose of determining whether a violation of division 4725  
(B) of this section has been or is being committed or for the sole 4726  
purpose of issuing a ticket, citation, or summons for a violation 4727  
of that nature or causing the arrest of or commencing a 4728  
prosecution of a person for a violation of that nature, and no law 4729  
enforcement officer shall view the interior or visually inspect 4730  
any automobile being operated on any street or highway for the 4731  
sole purpose of determining whether a violation of that nature has 4732  
been or is being committed. 4733

(E) All fines collected for violations of division (B) of 4734  
this section, or for violations of any ordinance or resolution of 4735  
a political subdivision that is substantively comparable to that 4736  
division, shall be forwarded to the treasurer of state for deposit 4737  
as follows: 4738

(1) Eight per cent shall be deposited into the seat belt 4739

education fund, which is hereby created in the state treasury, and  
shall be used by the department of public safety to establish a  
seat belt education program.

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(2) Eight per cent shall be deposited into the elementary  
school program fund, which is hereby created in the state  
treasury, and shall be used by the department of public safety to  
establish and administer elementary school programs that encourage  
seat safety belt use.

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(3) Two per cent shall be deposited into the Ohio ambulance  
licensing trust fund created by section 4766.05 of the Revised  
Code.

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(4) Twenty-eight per cent shall be deposited into the trauma  
and emergency medical services fund, which is hereby created in  
the state treasury, and shall be used by the department of public  
safety for the administration of the division of emergency medical  
services and the state board of emergency medical services.

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(5) Fifty-four per cent shall be deposited into the trauma  
and emergency medical services grants fund, which is hereby  
created in the state treasury, and shall be used by the state  
board of emergency medical services to make grants, in accordance  
with section 4765.07 of the Revised Code and rules the board  
adopts under section 4765.11 of the Revised Code.

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(F) ~~The (1) Subject to division (F)(2) of this section, the~~  
failure of a person to wear all of the available elements of a  
properly adjusted occupant restraining device ~~in violation of~~  
~~division (B)(1) or (3) of this section or the failure of a person~~  
to ensure that each minor who is a passenger of an automobile  
being operated by ~~that~~ the person is wearing all of the available  
elements of such a ~~properly adjusted occupant restraining device,~~  
in violation of division (B)~~(2)~~ of this section, shall not be  
considered ~~by the trier of fact in a tort action or used~~ as

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~~evidence of negligence or contributory negligence or other~~ 4771  
~~tortious conduct or considered for any other relevant purpose if~~ 4772  
~~the failure contributed to the harm alleged in the tort action and~~ 4773  
~~may, shall not diminish pursuant to section 2315.19 or 2315.20 of~~ 4774  
~~the Revised Code a recovery of compensatory for damages in a tort~~ 4775  
~~any civil action involving the person arising from the ownership,~~ 4776  
~~maintenance, or operation of an automobile;~~ shall not be used as a 4777  
basis for a criminal prosecution of the person other than a 4778  
prosecution for a violation of this section; and shall not be 4779  
admissible as evidence in a any civil or criminal action involving 4780  
the person other than a prosecution for a violation of this 4781  
section. 4782

(2) If, at the time of an accident involving a passenger car 4783  
equipped with occupant restraining devices, any occupant of the 4784  
passenger car who sustained injury or death was not wearing an 4785  
available occupant restraining device, was not wearing all of the 4786  
available elements of such a device, or was not wearing such a 4787  
device as properly adjusted, then, consistent with the Rules of 4788  
Evidence, the fact that the occupant was not wearing the available 4789  
occupant restraining device, was not wearing all of the available 4790  
elements of such a device, or was not wearing such a device as 4791  
properly adjusted is admissible in evidence in relation to any 4792  
claim for relief in a tort action to the extent that the claim for 4793  
relief satisfies all of the following: 4794

(a) It seeks to recover damages for injury or death to the 4795  
occupant. 4796

(b) The defendant in question is the manufacturer, designer, 4797  
distributor, or seller of the passenger car. 4798

(c) The claim for relief against the defendant in question is 4799  
that the injury or death sustained by the occupant was enhanced or 4800  
aggravated by some design defect in the passenger car or that the 4801  
passenger car was not crashworthy. 4802

(3) As used in division (F)(2) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of a contract or another agreement between persons.

**Sec. 4582.27. (A)** A port authority created in accordance with section 4582.22 of the Revised Code shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it considers necessary and shall be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a township shall consist of such members as it considers necessary and shall be appointed by the township trustees of the township. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it considers necessary and shall be appointed by the board of county commissioners of the county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among the political subdivisions in such proportions as the political subdivisions may agree and shall be appointed by the participating political subdivisions in the same manner as this section provides for the appointment of members by a political subdivision creating its own port authority. If a participating political subdivision is not authorized by section 4582.22 of the Revised Code to create its own port authority, the political subdivision's elected legislative body, if the political subdivision has an elected legislative body, or the political subdivision's elected official or officials who appoint the legislative body of the political subdivision shall appoint the

members of a board of directors of a port authority that are to be 4835  
appointed by that political subdivision. If the electors of a 4836  
participating political subdivision do not elect either the 4837  
legislative body of the political subdivision or the official or 4838  
officials who appoint the legislative body of the political 4839  
subdivision, the participating political subdivision may not 4840  
appoint any member of a board of directors of a port authority. 4841  
When a port authority is created by a combination of political 4842  
subdivisions, the number of directors comprising the board shall 4843  
be determined by agreement between the political subdivisions, 4844  
which number may be changed from time to time by amendment of the 4845  
agreement. The appointing body may at any time remove a director 4846  
appointed by it for misfeasance, nonfeasance, or malfeasance in 4847  
office. 4848

A majority of the directors shall have been qualified 4849  
electors of, or shall have had their businesses or places of 4850  
employment in, one or more political subdivisions within the area 4851  
of the jurisdiction of the port authority, for a period of at 4852  
least three years next preceding their appointment. 4853

The directors of any port authority first appointed shall 4854  
serve staggered terms. Thereafter each successor shall serve for a 4855  
term of four years, except that any person appointed to fill a 4856  
vacancy shall be appointed to only the unexpired term and any 4857  
director is eligible for reappointment. 4858

The board of directors by rule may provide for the removal of 4859  
a director who fails to attend three consecutive regular meetings 4860  
of the board. If a director is so removed, a successor shall be 4861  
appointed for the remaining term of the removed director in the 4862  
same manner provided for the original appointment. 4863

The directors shall elect one of their membership as 4864  
chairperson and another as vice-chairperson, and shall designate 4865  
their terms of office, and shall appoint a secretary who need not 4866

be a director. A majority of the board of directors shall  
constitute a quorum, the affirmative vote of which shall be  
necessary for any action taken by the port authority. No vacancy  
in the membership of the board shall impair the rights of a quorum  
to exercise all the rights and perform all the duties of the port  
authority.

Each member of the board of directors of a port authority  
shall be entitled to receive from the port authority such sum of  
money as the board of directors may determine as compensation for  
services as director and reimbursement for reasonable expenses in  
the performance of official duties.

(B) Except for civil actions that arise out of the operation  
of a motor vehicle and civil actions in which the port authority  
is the plaintiff, no director, officer, or employee of a port  
authority shall be liable in any civil action that arises under  
the law of this state for damage or injury caused in the  
performance of his duties, unless the director's, officer's, or  
employee's actions were manifestly outside the scope of his  
employment or official responsibilities, or unless the director,  
officer, or employee acted with malicious purpose, in bad faith,  
or in a wanton or reckless manner.

This division does not eliminate, limit, or reduce any  
immunity from civil liability that is conferred upon a director,  
officer, or employee by any other provision of the Revised Code or  
by case law.

(C)(1) A port authority shall, except as provided in division  
(B) of this section, indemnify a director, officer, or employee  
from liability incurred in the performance of his duties by paying  
any judgment in, or amount negotiated in settlement of, any civil  
action arising under federal law, the law of another state, or the  
law of a foreign jurisdiction. The reasonableness of the amount of  
any consent judgment or settlement is subject to the review and

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approval of the board of the port authority. The maximum aggregate amount of indemnification paid directly from funds to or on behalf of any director, officer or employee pursuant to this division shall be one million dollars per occurrence, regardless of the number of persons who suffer damage, injury, or death as a result of the occurrence. 4899  
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(2) A port authority shall not indemnify a director, officer, or employee under any of the following circumstances: 4905  
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(a) To the extent the director, officer, or employee is covered by a policy of insurance for civil liability purchased by the port authority; 4907  
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(b) When the director, officer, or employee acts manifestly outside the scope of his employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner; 4910  
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(c) For any portion of a judgment that represents punitive or exemplary damages; 4914  
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(d) For any portion of a consent judgment or settlement that is unreasonable. 4916  
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(3) The port authority may purchase a policy or policies of insurance on behalf of directors, officers, and employees of the port authority from an insurer or insurers licensed to do business in this state providing coverage for damages in connection with any civil action, demand, or claim against the director, officer, or employee by reason of an act or omission by the director, officer, or employee occurring in the performance of his duties and not coming within the terms of division (C)(2)(b) of this section. 4918  
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(4) This section does not affect either of the following: 4927

(a) Any defense that would otherwise be available in an 4928

action alleging personal liability of a director, officer, or 4929  
employee; 4930

(b) The operation of section 9.83 of the Revised Code. 4931

**Sec. 4909.42.** If the proceeding on an application filed with 4932  
the public utilities commission under section 4909.18 of the 4933  
Revised Code by any public utility requesting an increase on any 4934  
rate, joint rate, toll, classification, charge, or rental or 4935  
requesting a change in a regulation or practice affecting the same 4936  
has not been concluded and an order entered pursuant to section 4937  
4909.19 of the Revised Code at the expiration of two hundred 4938  
seventy-five days from the date of filing the application, the 4939  
proposed increase shall go into effect upon the filing of an 4940  
undertaking by the public utility. The undertaking shall be filed 4941  
with the commission and shall be payable to the state for the use 4942  
and benefit of the customers affected by the proposed increase or 4943  
change. 4944

The undertaking must be signed by two of the officers of the 4945  
utility, under oath, and must contain a promise to refund any 4946  
amounts collected by the utility over the rate, joint rate, toll, 4947  
classification, charge, or rental, as determined in the final 4948  
order of the commission. All refunds shall include interest at the 4949  
rate stated in section 1343.03 of the Revised Code. The refund 4950  
shall be in the form of a temporary reduction in rates following 4951  
the final order of the commission, and shall be accomplished in 4952  
such manner as shall be prescribed by the commission in its final 4953  
order. The commission shall exercise continuing and exclusive 4954  
jurisdiction over such refunds. 4955

If the public utilities commission has not entered a final 4956  
order within five hundred forty-five days from the date of the 4957  
filing of an application for an increase in rates under section 4958  
4909.18 of the Revised Code, a public utility shall have no 4959

obligation to make a refund of amounts collected after the five 4960  
hundred forty-fifth day which exceed the amounts authorized by the 4961  
commission's final order. 4962

Nothing in this section shall be construed to mitigate any 4963  
duty of the commission to issue a final order under section 4964  
4909.19 of the Revised Code. 4965

**Sec. 5111.81.** (A) There is hereby established the pharmacy 4966  
and therapeutics committee of the department of job and family 4967  
services. The committee shall consist of eight members and shall 4968  
be appointed by the director of job and family services. The 4969  
membership of the committee shall include: two pharmacists 4970  
licensed under Chapter 4729. of the Revised Code; two doctors of 4971  
medicine and two doctors of osteopathy licensed under Chapter 4972  
4731. of the Revised Code; a registered nurse licensed under 4973  
Chapter 4723. of the Revised Code; and a pharmacologist who has a 4974  
doctoral degree. The committee shall elect one of its members as 4975  
chairperson. 4976

~~(B) In the absence of fraud or bad faith, neither the 4977  
pharmacy and therapeutics committee nor a current or former 4978  
member, agent, representative, employee, or independent contractor 4979  
of the committee shall be held liable in damages to a person as 4980  
the result of an act, omission, proceeding, conduct, or decision 4981  
relating to the official duties undertaken or performed pursuant 4982  
to this section or rules promulgated pursuant to section 111.15 or 4983  
Chapter 119. of the Revised Code. If a current or former member, 4984  
agent, representative, employee, or independent contractor of the 4985  
committee requests the state to defend the current or former 4986  
member, agent, representative, employee, or independent contractor 4987  
against a claim or in an action arising out of an act, omission, 4988  
proceeding, conduct, or decision relating to official duties 4989  
undertaken or performed, if the request is made in writing at a 4990~~

~~reasonable time before the trial of the claim or in the action, 4991  
and if the person requesting the defense cooperates in good faith 4992  
in the defense of the claim or action, the state shall provide and 4993  
pay for the defense of the claim or action and shall pay any 4994  
resulting judgment, compromise, or settlement. The state shall not 4995  
pay that part of a claim or judgment that is for punitive or 4996  
exemplary damages. 4997~~

**Sec. 5591.36.** The board of county commissioners shall erect 4998  
and maintain, where not already done, one or more guardrails on 4999  
each end of a county bridge, viaduct, or culvert more than five 5000  
feet high and on each side of every approach to a county bridge, 5001  
viaduct, or culvert, if the approach or embankment is more than 5002  
six feet high. The board shall also protect, by suitable 5003  
guardrails, all perpendicular wash banks more than eight feet in 5004  
height, where such banks have an immediate connection with a 5005  
public highway other than state highways, or are adjacent thereto 5006  
in an unprotected condition. 5007

It shall be a sufficient compliance with this section, if the 5008  
board causes to be erected and maintained a good stockproof hedge 5009  
fence where a guardrail is required. Such guardrails or hedge 5010  
fences shall be erected in a substantial manner, having sufficient 5011  
strength to protect life and property, the expense thereof to be 5012  
paid out of the county bridge fund. 5013

**Sec. 5591.37.** Failure to comply with section 5591.36 of the 5014  
Revised Code shall render the county liable for all accidents or 5015  
damages as a result of such failure. 5016

**Section 2.02.** That all the following are repealed: 5017

(A) Existing sections 1701.95, 1707.01, 1901.18, 2101.31, 5018  
2305.25, 2305.251, 2305.37, 2307.24, 2307.27, 2307.30, 2307.60, 5019

2307.61, 2313.46, 2315.07, 2315.08, 2315.18, 2315.23, 2315.24, 5020  
2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 2744.05, 3123.17, 5021  
4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 of the Revised 5022  
Code; 5023

(B) Sections 109.36, 163.17, 723.01, 1343.03, 1775.14, 5024  
1901.041, 1901.17, 1901.181, 1901.20, 1905.032, 2117.06, 2125.01, 5025  
2125.02, 2125.04, 2305.01, 2305.10, 2305.11, 2305.16, 2305.35, 5026  
2305.38, 2307.31, 2307.32, 2307.33, 2307.71, 2307.72, 2307.73, 5027  
2307.75, 2307.78, 2307.80, 2315.01, 2315.18, 2315.19, 2315.20, 5028  
2315.21, 2317.62, 2323.51, 2501.02, 2744.04, 2744.06, 3701.19, 5029  
3722.08, 4112.14, 4112.99, 4113.52, 4171.10, 4399.18, 4909.42, 5030  
5591.36, and 5591.37 of the Revised Code, as they result from 5031  
Section 1 of Am. Sub. H.B. 350 of the 121st General Assembly; 5032

(C) Sections 901.52, 2101.163, 2151.542, 2303.202, 2305.011, 5033  
2305.012, 2305.113, 2305.252, 2305.381, 2305.382, 2307.31, 5034  
2307.42, 2307.43, 2307.48, 2307.791, 2307.792, 2307.80, 2309.01, 5035  
2315.37, 2317.46, 2323.54, and 2323.59 of the Revised Code; 5036

(D) Sections 1901.262 and 1907.262 of the Revised Code, as 5037  
enacted by Section 1 of Am. Sub. H.B. 350; 5038

(E) Section 2305.131 of the Revised Code, both as it results 5039  
from and as it existed prior to its repeal and re-enactment by 5040  
Sections 1 and 2 of Am. Sub. H.B. 350; 5041

(F) New sections 2307.31 and 2307.80 of the Revised Code, as 5042  
enacted by Section 1 of Am. Sub. H.B. 350; and 5043

(G) Section 2317.45 of the Revised Code. 5044

**Section 2.03.** That sections 2744.01 and 2744.03 of the 5045  
Revised Code as scheduled to take effect on January 1, 2002, be 5046  
amended to read as follows: 5047

**Sec. 2744.01.** As used in this chapter: 5048

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.

(C)(1) "Governmental function" means a function of a political subdivision that is specified in division (C)(2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not

engaged in or not customarily engaged in by nongovernmental	5080
persons; and that is not specified in division (G)(2) of this	5081
section as a proprietary function.	5082
(2) A "governmental function" includes, but is not limited	5083
to, the following:	5084
(a) The provision or nonprovision of police, fire, emergency	5085
medical, ambulance, and rescue services or protection;	5086
(b) The power to preserve the peace; to prevent and suppress	5087
riots, disturbances, and disorderly assemblages; to prevent,	5088
mitigate, and clean up releases of oil and hazardous and extremely	5089
hazardous substances as defined in section 3750.01 of the Revised	5090
Code; and to protect persons and property;	5091
(c) The provision of a system of public education;	5092
(d) The provision of a free public library system;	5093
(e) The regulation of the use of, and the maintenance and	5094
repair of, roads, highways, streets, avenues, alleys, sidewalks,	5095
bridges, aqueducts, viaducts, and public grounds;	5096
(f) Judicial, quasi-judicial, prosecutorial, legislative, and	5097
quasi-legislative functions;	5098
(g) The construction, reconstruction, repair, renovation,	5099
maintenance, and operation of buildings that are used in	5100
connection with the performance of a governmental function,	5101
including, but not limited to, office buildings and courthouses;	5102
(h) The design, construction, reconstruction, renovation,	5103
repair, maintenance, and operation of jails, places of juvenile	5104
detention, workhouses, or any other detention facility, as defined	5105
in section 2921.01 of the Revised Code;	5106
(i) The enforcement or nonperformance of any law;	5107
(j) The regulation of traffic, and the erection or	5108

nonerection of traffic signs, signals, or control devices;	5109
(k) The collection and disposal of solid wastes, as defined	5110
in section 3734.01 of the Revised Code, including, but not limited	5111
to, the operation of solid waste disposal facilities, as	5112
"facilities" is defined in that section, and the collection and	5113
management of hazardous waste generated by households. As used in	5114
division (C)(2)(k) of this section, "hazardous waste generated by	5115
households" means solid waste originally generated by individual	5116
households that is listed specifically as hazardous waste in or	5117
exhibits one or more characteristics of hazardous waste as defined	5118
by rules adopted under section 3734.12 of the Revised Code, but	5119
that is excluded from regulation as a hazardous waste by those	5120
rules.	5121
(l) The provision or nonprovision, planning or design,	5122
construction, or reconstruction of a public improvement,	5123
including, but not limited to, a sewer system;	5124
(m) The operation of a human services department or agency,	5125
including, but not limited to, the provision of assistance to aged	5126
and infirm persons and to persons who are indigent;	5127
(n) The operation of a health board, department, or agency,	5128
including, but not limited to, any statutorily required or	5129
permissive program for the provision of immunizations or other	5130
inoculations to all or some members of the public, provided that a	5131
"governmental function" does not include the supply, manufacture,	5132
distribution, or development of any drug or vaccine employed in	5133
any such immunization or inoculation program by any supplier,	5134
manufacturer, distributor, or developer of the drug or vaccine;	5135
(o) The operation of mental health facilities, mental	5136
retardation or developmental disabilities facilities, alcohol	5137
treatment and control centers, and children's homes or agencies;	5138
(p) The provision or nonprovision of inspection services of	5139

all types, including, but not limited to, inspections in 5140  
connection with building, zoning, sanitation, fire, plumbing, and 5141  
electrical codes, and the taking of actions in connection with 5142  
those types of codes, including, but not limited to, the approval 5143  
of plans for the construction of buildings or structures and the 5144  
issuance or revocation of building permits or stop work orders in 5145  
connection with buildings or structures; 5146

(q) Urban renewal projects and the elimination of slum 5147  
conditions; 5148

(r) Flood control measures; 5149

(s) The design, construction, reconstruction, renovation, 5150  
operation, care, repair, and maintenance of a township cemetery; 5151

(t) The issuance of revenue obligations under section 140.06 5152  
of the Revised Code; 5153

(u) The design, construction, reconstruction, renovation, 5154  
repair, maintenance, and operation of any park, playground, 5155  
playfield, indoor recreational facility, zoo, zoological park, 5156  
bath, swimming pool, pond, water park, wading pool, wave pool, 5157  
water slide, and other type of aquatic facility, or golf course; 5158

(v) The provision of public defender services by a county or 5159  
joint county public defender's office pursuant to Chapter 120. of 5160  
the Revised Code; 5161

(w) A function that the general assembly mandates a political 5162  
subdivision to perform. 5163

(D) "Law" means any provision of the constitution, statutes, 5164  
or rules of the United States or of this state; provisions of 5165  
charters, ordinances, resolutions, and rules of political 5166  
subdivisions; and written policies adopted by boards of education. 5167  
When used in connection with the "common law," this definition 5168  
does not apply. 5169

(E) "Motor vehicle" has the same meaning as in section 5170  
4511.01 of the Revised Code. 5171

(F) "Political subdivision" or "subdivision" means a 5172  
municipal corporation, township, county, school district, or other 5173  
body corporate and politic responsible for governmental activities 5174  
in a geographic area smaller than that of the state. "Political 5175  
subdivision" includes, but is not limited to, a county hospital 5176  
commission appointed under section 339.14 of the Revised Code, 5177  
regional planning commission created pursuant to section 713.21 of 5178  
the Revised Code, county planning commission created pursuant to 5179  
section 713.22 of the Revised Code, joint planning council created 5180  
pursuant to section 713.231 of the Revised Code, interstate 5181  
regional planning commission created pursuant to section 713.30 of 5182  
the Revised Code, port authority created pursuant to section 5183  
4582.02 or 4582.26 of the Revised Code or in existence on December 5184  
16, 1964, regional council established by political subdivisions 5185  
pursuant to Chapter 167. of the Revised Code, emergency planning 5186  
district and joint emergency planning district designated under 5187  
section 3750.03 of the Revised Code, joint emergency medical 5188  
services district created pursuant to section 307.052 of the 5189  
Revised Code, fire and ambulance district created pursuant to 5190  
section 505.375 of the Revised Code, joint interstate emergency 5191  
planning district established by an agreement entered into under 5192  
that section, county solid waste management district and joint 5193  
solid waste management district established under section 343.01 5194  
or 343.012 of the Revised Code, and community school established 5195  
under Chapter 3314. of the Revised Code. 5196

(G)(1) "Proprietary function" means a function of a political 5197  
subdivision that is specified in division (G)(2) of this section 5198  
or that satisfies both of the following: 5199

(a) The function is not one described in division (C)(1)(a) 5200  
or (b) of this section and is not one specified in division (C)(2) 5201

of this section; 5202

(b) The function is one that promotes or preserves the public 5203  
peace, health, safety, or welfare and that involves activities 5204  
that are customarily engaged in by nongovernmental persons. 5205  
5206

(2) A "proprietary function" includes, but is not limited to, 5207  
the following: 5208

(a) The operation of a hospital by one or more political 5209  
subdivisions; 5210

(b) The design, construction, reconstruction, renovation, 5211  
repair, maintenance, and operation of a public cemetery other than 5212  
a township cemetery; 5213

(c) The establishment, maintenance, and operation of a 5214  
utility, including, but not limited to, a light, gas, power, or 5215  
heat plant, a railroad, a busline or other transit company, an 5216  
airport, and a municipal corporation water supply system; 5217

(d) The maintenance, destruction, operation, and upkeep of a 5218  
sewer system; 5219

(e) The operation and control of a public stadium, 5220  
auditorium, civic or social center, exhibition hall, arts and 5221  
crafts center, band or orchestra, or off-street parking facility. 5222

(H) ~~"Public roads" means public roads, highways, streets,~~ 5223  
~~avenues, alleys, and bridges within a political subdivision.~~ 5224  
~~"Public roads" does not include berms, shoulders, rights-of-way,~~ 5225  
~~or traffic control devices unless the traffic control devices are~~ 5226  
~~mandated by the Ohio manual of uniform traffic control devices.~~ 5227

(I) "State" means the state of Ohio, including, but not 5228  
limited to, the general assembly, the supreme court, the offices 5229  
of all elected state officers, and all departments, boards, 5230  
offices, commissions, agencies, colleges and universities, 5231

institutions, and other instrumentalities of the state of Ohio. 5232  
"State" does not include political subdivisions. 5233

**Sec. 2744.03.** (A) In a civil action brought against a 5234  
political subdivision or an employee of a political subdivision to 5235  
recover damages for injury, death, or loss to persons or property 5236  
allegedly caused by any act or omission in connection with a 5237  
governmental or proprietary function, the following defenses or 5238  
immunities may be asserted to establish nonliability: 5239

(1) The political subdivision is immune from liability if the 5240  
employee involved was engaged in the performance of a judicial, 5241  
quasi-judicial, prosecutorial, legislative, or quasi-legislative 5242  
function. 5243

(2) The political subdivision is immune from liability if the 5244  
conduct of the employee involved, other than negligent conduct, 5245  
that gave rise to the claim of liability was required by law or 5246  
authorized by law, or if the conduct of the employee involved that 5247  
gave rise to the claim of liability was necessary or essential to 5248  
the exercise of powers of the political subdivision or employee. 5249  
5250

(3) The political subdivision is immune from liability if the 5251  
action or failure to act by the employee involved that gave rise 5252  
to the claim of liability was within the discretion of the 5253  
employee with respect to policy-making, planning, or enforcement 5254  
powers by virtue of the duties and responsibilities of the office 5255  
or position of the employee. 5256

(4) The political subdivision is immune from liability if the 5257  
action or failure to act by the political subdivision or employee 5258  
involved that gave rise to the claim of liability resulted in 5259  
injury or death to a person who had been convicted of or pleaded 5260  
guilty to a criminal offense and who, at the time of the injury or 5261  
death, was serving any portion of the person's sentence by 5262

performing community service work for or in the political 5263  
subdivision whether pursuant to section 2951.02 of the Revised 5264  
Code or otherwise, or resulted in injury or death to a child who 5265  
was found to be a delinquent child and who, at the time of the 5266  
injury or death, was performing community service or community 5267  
work for or in a political subdivision in accordance with the 5268  
order of a juvenile court entered pursuant to section 2152.19 or 5269  
2152.20 of the Revised Code, and if, at the time of the person's 5270  
or child's injury or death, the person or child was covered for 5271  
purposes of Chapter 4123. of the Revised Code in connection with 5272  
the community service or community work for or in the political 5273  
subdivision. 5274

(5) The political subdivision is immune from liability if the 5275  
injury, death, or loss to persons or property resulted from the 5276  
exercise of judgment or discretion in determining whether to 5277  
acquire, or how to use, equipment, supplies, materials, personnel, 5278  
facilities, and other resources unless the judgment or discretion 5279  
was exercised with malicious purpose, in bad faith, or in a wanton 5280  
or reckless manner. 5281

(6) In addition to any immunity or defense referred to in 5282  
division (A)(7) of this section and in circumstances not covered 5283  
by that division or sections 3314.07 and 3746.24 of the Revised 5284  
Code, the employee is immune from liability unless one of the 5285  
following applies: 5286

(a) The employee's acts or omissions were manifestly outside 5287  
the scope of the employee's employment or official 5288  
responsibilities; 5289

(b) The employee's acts or omissions were with malicious 5290  
purpose, in bad faith, or in a wanton or reckless manner; 5291

(c) Liability is expressly imposed upon the employee by a 5292  
section of the Revised Code. ~~Liability shall not be construed to~~ 5293

~~exist under another section of the Revised Code merely because 5294  
that section imposes a responsibility or mandatory duty upon an 5295  
employee, because of a general authorization in that section that 5296  
an employee may sue and be sued, or because the section uses the 5297  
term "shall" in a provision pertaining to an employee. 5298~~

(7) The political subdivision, and an employee who is a 5299  
county prosecuting attorney, city director of law, village 5300  
solicitor, or similar chief legal officer of a political 5301  
subdivision, an assistant of any such person, or a judge of a 5302  
court of this state is entitled to any defense or immunity 5303  
available at common law or established by the Revised Code. 5304

(B) Any immunity or defense conferred upon, or referred to in 5305  
connection with, an employee by division (A)(6) or (7) of this 5306  
section does not affect or limit any liability of a political 5307  
subdivision for an act or omission of the employee as provided in 5308  
section 2744.02 of the Revised Code. 5309

**Section 2.04.** That existing sections 2744.01 and 2744.03 of 5310  
the Revised Code as scheduled to take effect on January 1, 2002, 5311  
are repealed. 5312

**Section 2.05.** Sections 2.03 and 2.04 of this act take effect 5313  
on January 1, 2002. 5314

**Section 3.** (A) In Section 2.01 of this act: 5315

(1) Sections 1701.95, 1707.01, 2305.25, 2305.251, 2305.37, 5316  
2307.60, 2307.61, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 5317  
2744.05, 3123.17, 4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 5318  
of the Revised Code, which have been amended by acts subsequent to 5319  
their amendment by Am. Sub. H.B. 350 of the 121st General 5320  
Assembly, are amended to remove matter inserted by, or to revive 5321  
matter removed by, Am. Sub. H.B. 350. Amendments made by Am. Sub. 5322

H.B. 350 or the subsequent acts that are independent of the 5323  
purposes of Am. Sub. H.B. 350 are retained. 5324

(2) Section 1901.18 of the Revised Code, as amended 5325  
subsequently to Sub. H.B. 350 by Am. Sub. S.B. 1 and Sub. H.B. 302 5326  
of the 122nd General Assembly, is amended to ratify a 5327  
cross-reference correction made to the section by Am. Sub. H.B. 5328  
350. 5329

(3) Sections 109.36, 2117.06, 2125.01, 2125.02, 2125.04, 5330  
2305.10, 2305.16, 2305.38, 2307.31, 2307.32, 2307.75, 2307.80, 5331  
2315.01, 2315.19, 2315.21, 2501.02, 2744.06, 3722.08, 4112.14, 5332  
4113.52, 4171.10, and 4399.18 of the Revised Code are revived and 5333  
amended, supersede the versions of the same sections that are 5334  
repealed by Section 2.02 of this act, and include amendments that 5335  
gender neutralize the language of the sections (as contemplated by 5336  
section 1.31 of the Revised Code) and that correct apparent error. 5337

(4) Sections 163.17, 723.01, 1343.03, 1775.14, 2305.01, 5338  
2305.11, 2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 2307.78, 5339  
2315.18, 2315.20, 2317.62, 2323.51, 2744.04, 4112.99, 4909.42, 5340  
5591.36, and 5591.37 of the Revised Code are revived and supersede 5341  
the versions of the same sections that are repealed by Section 5342  
2.02 of this act. 5343

(5) Notwithstanding its attempted repeal by Am. Sub. H.B. 5344  
350, section 2305.27 of the Revised Code is revived and amended to 5345  
gender neutralize the language of the section. 5346

(6) Former sections 2307.31 and 2307.80 of the Revised Code, 5347  
as they existed prior to being renumbered by Am. Sub. H.B. 350, 5348  
are revived and amended as explained in division (A)(2) of this 5349  
section. Am. Sub. H.B. 350 renumbered former sections 2307.31 and 5350  
2307.80 of the Revised Code and reassigned their numbers to new 5351  
sections. Only new sections 2307.31 and 2307.80 of the Revised 5352  
Code, as enacted by Section 1 of Am. Sub. H.B. 350, are repealed 5353

by Section 2.02 of this act. 5354

(7) Section 3123.17 of the Revised Code is amended as 5355  
explained in division (A)(1) of this section to remove matter 5356  
inserted into former section 3113.219 of the Revised Code by Am. 5357  
Sub. H.B. 350. Am. Sub. S.B. 180 of the 123rd General Assembly 5358  
amended and renumbered former section 3113.219 of the Revised Code 5359  
as section 3123.17 of the Revised Code as part of its general 5360  
revision of the child support laws. The amendments of Am. Sub. 5361  
S.B. 180 are retained. 5362

(B) The repeal by Section 2.02 of this act of: 5363

(1) Sections 1901.041, 1901.17, 1901.181, 1901.20, 1901.262, 5364  
1905.032, and 1907.262 of the Revised Code as they result from Am. 5365  
Sub. H.B. 350 is intended to enable the sections to remain in 5366  
effect as they result from Am. Sub. H.B. 438 of the 121st General 5367  
Assembly, 146 Ohio Laws 4823. 5368

(2) Section 2317.45 of the Revised Code responds to the 5369  
section having been held unconstitutional by the Supreme Court of 5370  
Ohio's decision in *Sorrell v. Thevenir* (1994), 69 Ohio St.3d 415. 5371

(3) Section 3701.19 of the Revised Code as it results from 5372  
Am. Sub. H.B. 350 is intended to enable the section to remain in 5373  
effect as it results from Sub. H.B. 670 of the 121st General 5374  
Assembly, 146 Ohio Laws 6440. 5375

(C) In Section 2.03 of this act sections 2744.01 and 2744.03 5376  
of the Revised Code are amended effective January 1, 2002, to 5377  
continue the amendments made to those sections by Section 2.01 of 5378  
this act as explained in division (A)(1) of this section. Sections 5379  
2744.01 and 2744.03 were amended subsequently to Am. Sub. H.B. 350 5380  
by Am. Sub. S.B. 179 of the 123rd General Assembly, effective 5381  
January 1, 2002. 5382

**Section 4.** Because Am. Sub. H.B. 551 of the 123rd General 5383

Assembly takes effect on October 5, 2001: 5384

(A) Section 1707.01 of the Revised Code, which is presented 5385  
in this act as it results from Am. Sub. H.B. 551, takes effect as 5386  
amended by this act on October 5, 2001. 5387

(B) Divisions (CC), (DD), (EE), (FF), (GG), and (HH) of 5388  
section 1707.01 of the Revised Code, which were inserted into the 5389  
section by Am. Sub. H.B. 350 of the 121st General Assembly, are 5390  
suspended on the effective date of this section, pending section 5391  
1707.01 of the Revised Code taking effect as amended by this act 5392  
on October 5, 2001. 5393

(C) Sections 1707.432, 1707.433, 1707.434, 1707.435, 5394  
1707.436, 1707.437, and 1707.438 of the Revised Code, which were 5395  
enacted by Am. Sub. H.B. 350, are suspended on the effective date 5396  
of this section, pending their repeal by Am. Sub. H.B. 551 taking 5397  
effect on October 5, 2001. 5398

**Section 5.01.** That Section 3 of Am. Sub. H.B. 438 of the 5399  
121st General Assembly, which was amended by Am. Sub. H.B. 350 of 5400  
the 121st General Assembly, be amended to read as follows: 5401

"**Sec. 3.** Sections 1 and 2 of Am. Sub. H.B. 438 of the 121st 5402  
General Assembly shall take effect on July 1, 1997, ~~except that~~ 5403  
~~section 2317.023 of the Revised Code, as amended by Am. Sub. H.B.~~ 5404  
~~438 of the 121st General Assembly, shall take effect on the~~ 5405  
~~effective date of Am. Sub. H.B. 350 of the 121st General~~ 5406  
~~Assembly."~~ 5407

**Section 5.02.** That existing Section 3 of Am. Sub. H.B. 438 of 5408  
the 121st General Assembly is repealed. 5409

**Section 5.03.** Notwithstanding the attempted amendment of 5410  
Section 3 of Am. Sub. H.B. 438 by Am. Sub. H.B. 350 of the 121st 5411

General Assembly, section 2317.023 of the Revised Code, as enacted 5412  
by Am. Sub. H.B. 438 of the 121st General Assembly, took effect on 5413  
July 1, 1997. 5414

**Section 6.** Sections 3, 4, 5, 6, 7, 8, 9, 13, and 16 of Am. 5415  
Sub. H.B. 350 of the 121st General Assembly are repealed. 5416

**Section 7.** In sections contained in this act that have been 5417  
amended by acts subsequent to their amendment by Am. Sub. H.B. 350 5418  
of the 121st General Assembly (other than section 1901.18 of the 5419  
Revised Code), matter removed by Am. Sub. H.B. 350 is revived, and 5420  
matter inserted by Am. Sub. H.B. 350 is removed, by amendment 5421  
indicated as directed in rule 103-5-01 of the Administrative Code. 5422  
But, notwithstanding rule 103-5-01 of the Administrative Code, in 5423  
sections contained in this act that have not been amended by acts 5424  
subsequent to their amendment by Am. Sub. H.B. 350 of the 121st 5425  
General Assembly (1) matter removed by Am. Sub. H.B. 350 is 5426  
revived by being reinserted without underlining, so as to indicate 5427  
the intention that it is old law that is being revived and (2) 5428  
matter inserted by Am. Sub. H.B. 350 is removed by being omitted, 5429  
so as to indicate the intention that, by virtue of its 5430  
noninclusion, it is being repealed because constitutionally 5431  
meaningless. In section 1901.18 of the Revised Code, ratification 5432  
of Sub. H.B. 350's cross-reference correction is indicated by 5433  
amendment as directed in rule 103-5-01 of the Administrative Code. 5434

**Section 8.** Section 109.36 of the Revised Code is presented in 5435  
this act as a composite of the section as amended by both Sub. 5436  
H.B. 715 and Am. Sub. H.B. 571 of the 120th General Assembly. 5437  
Section 4112.02 of the Revised Code is presented in this act as a 5438  
composite of the section as amended by both Am. H.B. 264 and H.B. 5439  
471 of the 123rd General Assembly. The General Assembly, applying 5440  
the principle stated in division (B) of section 1.52 of the 5441

Revised Code that amendments are to be harmonized if reasonably 5442  
capable of simultaneous operation, finds that the composites are 5443  
the resulting version of the sections in effect prior to the 5444  
effective date of the sections as presented in this act. 5445

**Section 9.** This act is an emergency measure necessary for the 5446  
immediate preservation of the public peace, health, and safety. 5447  
The reason for the necessity is that repeal of the Tort Reform Act 5448  
and revival of prior law will clarify the status of law that is 5449  
unsettled as a result of the act being held unconstitutional. 5450  
Therefore, this act goes into immediate effect. 5451