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124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 108

SENATORS Jacobson, Austria, Amstutz, Spada, Wachtmann
REPRESENTATIVES Willamowski, Gilb, Hagan, Fessler, Evans, Flowers,
Schuring, Schmidt, Buehrer, Webster, Coates

A BILL

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), 2315.23 10
(2315.08), and 2315.24 (2315.09); to revive and 11
amend sections 109.36, 2117.06, 2125.01, 2125.02, 12
2125.04, 2305.10, 2305.16, 2305.27, 2305.38, 13
2307.31, 2307.32, 2307.75, 2307.80, 2315.01, 14
2315.19, 2315.21, 2501.02, 2744.06, 3722.08, 15
4112.14, 4113.52, 4171.10, and 4399.18; to revive, 16
amend, and amend, for the purpose of adopting a new 17
section number as indicated in parentheses, section 18
2315.18 (2315.07); to revive sections 163.17, 19
723.01, 1343.03, 1775.14, 2305.01, 2305.11, 20
2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 21
2307.78, 2315.20, 2317.62, 2323.51, 2744.04, 22
4112.99, 4909.42, 5591.36, and 5591.37; to repeal 23

sections 109.36, 163.17, 723.01, 1343.03, 1775.14, 24
1901.041, 1901.17, 1901.181, 1901.20, 1905.032, 25
2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 26
2305.10, 2305.11, 2305.16, 2305.35, 2305.38, 27
2307.32, 2307.33, 2307.331, 2307.71, 2307.72, 28
2307.73, 2307.75, 2307.78, 2307.801, 2315.01, 29
2315.18, 2315.19, 2315.20, 2315.21, 2317.62, 30
2323.51, 2501.02, 2744.04, 2744.06, 3701.19, 31
3722.08, 4112.14, 4112.99, 4113.52, 4171.10, 32
4399.18, 4909.42, 5591.36, and 5591.37, as they 33
result from Am. Sub. H.B. 350 of the 121st General 34
Assembly; to repeal sections 901.52, 2101.163, 35
2151.542, 2303.202, 2305.011, 2305.012, 2305.113, 36
2305.131, 2305.252, 2305.381, 2305.382, 2307.31, 37
2307.42, 2307.43, 2307.48, 2307.791, 2307.792, 38
2307.80, 2309.01, 2315.37, 2317.45, 2317.46, 39
2323.54, and 2323.59; to repeal sections 1901.262 40
and 1907.262, as enacted by Am. Sub. H.B. 350; to 41
suspend part of section 1707.01; and to suspend 42
sections 1707.432, 1707.433, 1707.434, 1707.435, 43
1707.436, 1707.437, and 1707.438 of the Revised 44
Code and to amend Section 3 of Am. Sub. H.B. 438 of 45
the 121st General Assembly and to repeal Sections 46
3, 4, 5, 6, 7, 8, 9, 13, and 16 of Am. Sub. H.B. 47
350 of the 121st General Assembly to repeal the 48
Tort Reform Act, Am. Sub. H.B. 350 of the 121st 49
General Assembly; to clarify the status of the law; 50
to reorganize certain tort related provisions; and 51
to revive prior law; to amend sections 2744.01 and 52
2744.03 of the Revised Code as scheduled to take 53
effect on January 1, 2002, to continue the 54
amendments of this act on and after that date; and 55
to declare an emergency. 56

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), 2315.23 (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; that section 2315.18 (2315.07) be revived, amended, and amended, for the purpose of adopting a new section number as indicated in parentheses; 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, 2315.20, 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
rendering medical, nursing, dental, podiatric, optometric,
physical therapeutic, psychiatric, or psychological services
pursuant to a personal services contract or purchased service
contract with a department, agency, or institution of the state;
or is rendering medical services to patients in a state
institution operated by the department of mental health, is a
member of the institution's staff, and is performing the services
pursuant to an agreement between the state institution and a board
of alcohol, drug addiction, and mental health services described
in section 340.021 of the Revised Code. "Officer or employee" does
not include any person elected, appointed, or employed by any
political subdivision of the state.

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

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

(D) "Employer" means the general assembly, the supreme court,
any office of an elected state officer, or any department, board,
office, commission, agency, institution, or other instrumentality
of the state of Ohio that employs or contracts with an officer or

employee or to which an officer or employee is elected or
appointed.

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Sec. 163.17. Where the agency has the right to take
possession of the property before the verdict upon payment into
court of a deposit, and a portion of said deposit may be withdrawn
immediately by the owner, the amount of the verdict which exceeds
the portion of the deposit withdrawable shall be subject to
interest from the date of taking to the date of actual payment of
the award.

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

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

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

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If the amount of any deposit actually withdrawn by the owner
exceeds the final award from which no appeal is or can be taken,

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then the owner at the time of entry of judgment on such award 148
shall refund at once to the court for the account of the agency 149
the amount of such excess plus interest on such excess from the 150
date of withdrawal of such excess until the date of such refund, 151
and upon the failure of the owner to make such refund, the agency 152
shall be entitled to a money judgment against the owner. 153

Except for cases involving the department of transportation, 154
interest as provided for in this section shall be at the rate of 155
interest for judgments as set forth in section 1343.03 of the 156
Revised Code. In a case involving the appropriation of property by 157
the department of transportation, and the department is the sole 158
public agency seeking to appropriate property in the case, 159
interest as provided for in this section shall be at the per annum 160
rate of either the interest rate as defined and established in 161
division (B) of section 5703.47 of the Revised Code, or ten per 162
cent, whichever is less. 163

Sec. 723.01. Municipal corporations shall have special power 164
to regulate the use of the streets. Except as provided in section 165
5501.49 of the Revised Code, the legislative authority of a 166
municipal corporation shall have the care, supervision, and 167
control of the public highways, streets, avenues, alleys, 168
sidewalks, public grounds, bridges, aqueducts, and viaducts within 169
the municipal corporation, and the municipal corporation shall 170
cause them to be kept open, in repair, and free from nuisance. 171

Sec. 1343.03. (A) In cases other than those provided for in 172
sections 1343.01 and 1343.02 of the Revised Code, when money 173
becomes due and payable upon any bond, bill, note, or other 174
instrument of writing, upon any book account, upon any settlement 175
between parties, upon all verbal contracts entered into, and upon 176
all judgments, decrees, and orders of any judicial tribunal for 177
the payment of money arising out of tortious conduct or a contract 178

or other transaction, the creditor is entitled to interest at the 179
rate of ten per cent per annum, and no more, unless a written 180
contract provides a different rate of interest in relation to the 181
money that becomes due and payable, in which case the creditor is 182
entitled to interest at the rate provided in that contract. 183

(B) Except as provided in divisions (C) and (D) of this 184
section, interest on a judgment, decree, or order for the payment 185
of money rendered in a civil action based on tortious conduct, 186
including, but not limited to a civil action based on tortious 187
conduct that has been settled by agreement of the parties, shall 188
be computed from the date the judgment, decree, or order is 189
rendered to the date on which the money is paid. 190

(C) Interest on a judgment, decree, or order for the payment 191
of money rendered in a civil action based on tortious conduct and 192
not settled by agreement of the parties, shall be computed from 193
the date the cause of action accrued to the date on which the 194
money is paid if, upon motion of any party to the action, the 195
court determines at a hearing held subsequent to the verdict or 196
decision in the action that the party required to pay the money 197
failed to make a good faith effort to settle the case and that the 198
party to whom the money is to be paid did not fail to make a good 199
faith effort to settle the case. 200

(D) Divisions (B) and (C) of this section do not apply to a 201
judgment, decree, or order rendered in a civil action based on 202
tortious conduct if a different period for computing interest on 203
it is specified by law, or if it is rendered in an action against 204
the state in the court of claims, or in an action under Chapter 205
4123. of the Revised Code. 206

Sec. 1701.95. (A)(1) In addition to any other liabilities 207
imposed by law upon directors of a corporation and except as 208
provided in division (B) of this section, directors shall be 209

jointly and severally liable to the corporation as provided in 210
division (A)(2) of this section if they vote for or assent to any 211
of the following: 212

(a) The payment of a dividend or distribution, the making of 213
a distribution of assets to shareholders, or the purchase or 214
redemption of the corporation's own shares, contrary in any such 215
case to law or the articles; 216

(b) A distribution of assets to shareholders during the 217
winding up of the affairs of the corporation, on dissolution or 218
otherwise, without the payment of all known obligations of the 219
corporation or without making adequate provision for their 220
payment; 221

(c) The making of a loan, other than in the usual course of 222
business, to an officer, director, or shareholder of the 223
corporation, other than in either of the following cases: 224

(i) In the case of a savings and loan association or of a 225
corporation engaged in banking or in the making of loans 226
generally; 227

(ii) At the time of the making of the loan, a majority of the 228
disinterested directors of the corporation voted for the loan and, 229
taking into account the terms and provisions of the loan and other 230
relevant factors, determined that the making of the loan could 231
reasonably be expected to benefit the corporation. 232

(2)(a) In cases under division (A)(1)(a) of this section, 233
directors shall be jointly and severally liable up to the amount 234
of the dividend, distribution, or other payment, in excess of the 235
amount that could have been paid or distributed without violation 236
of law or the articles but not in excess of the amount that would 237
inure to the benefit of the creditors of the corporation if it was 238
insolvent at the time of the payment or distribution or there was 239
reasonable ground to believe that by that action it would be 240

rendered insolvent, plus the amount that was paid or distributed 241
to holders of shares of any class in violation of the rights of 242
holders of shares of any other class. 243

(b) In cases under division (A)(1)(b) of this section, 244
directors shall be jointly and severally liable to the extent that 245
the obligations of the corporation that are not otherwise barred 246
by statute are not paid or for the payment of which adequate 247
provision has not been made. 248

(c) In cases under division (A)(1)(c) of this section, 249
directors shall be jointly and severally liable for the amount of 250
the loan with interest on it at the rate specified in ~~division (A)~~ 251
~~of~~ section 1343.03 of the Revised Code until the amount has been 252
paid. 253

(B)(1) A director is not liable under division (A)(1)(a) or 254
(b) of this section if, in determining the amount available for 255
any dividend, purchase, redemption, or distribution to 256
shareholders, the director in good faith relied on a financial 257
statement of the corporation prepared by an officer or employee of 258
the corporation in charge of its accounts or certified by a public 259
accountant or firm of public accountants, the director in good 260
faith considered the assets to be of their book value, or the 261
director followed what the director believed to be sound 262
accounting and business practice. 263

(2) A director is not liable under division (A)(1)(c) of this 264
section for making any loan to, or guaranteeing any loan to or 265
other obligation of, an employee stock ownership plan, as defined 266
in section 4975(e)(7) of the Internal Revenue Code. 267

(C) A director who is present at a meeting of the directors 268
or a committee of the directors at which action on any matter is 269
authorized or taken and who has not voted for or against the 270
action shall be presumed to have voted for the action unless that 271

director's written dissent from the action is filed, either during 272
the meeting or within a reasonable time after the adjournment of 273
the meeting, with the person acting as secretary of the meeting or 274
with the secretary of the corporation. 275

(D) A shareholder who knowingly receives any dividend, 276
distribution, or payment made contrary to law or the articles 277
shall be liable to the corporation for the amount received by that 278
shareholder that is in excess of the amount that could have been 279
paid or distributed without violation of law or the articles. 280

(E) A director against whom a claim is asserted under or 281
pursuant to this section and who is held liable on the claim shall 282
be entitled to contribution, on equitable principles, from other 283
directors who also are liable. In addition, any director against 284
whom a claim is asserted under or pursuant to this section or who 285
is held liable shall have a right of contribution from the 286
shareholders who knowingly received any dividend, distribution, or 287
payment made contrary to law or the articles, and those 288
shareholders as among themselves also shall be entitled to 289
contribution in proportion to the amounts received by them 290
respectively. 291

(F) No action shall be brought by or on behalf of a 292
corporation upon ~~a~~ any cause of action arising under division 293
(A)(1)(a) or (b) of this section at any time after two years from 294
the day on which the violation occurs. 295

(G) Nothing contained in this section shall preclude a 296
creditor whose claim is unpaid from exercising the rights that 297
that creditor otherwise would have by law to enforce that 298
creditor's claim against assets of the corporation paid or 299
distributed to shareholders. 300

(H) The failure of a corporation to observe corporate 301
formalities relating to meetings of directors or shareholders in 302

connection with the management of the corporation's affairs shall 303
not be considered a factor tending to establish that the 304
shareholders have personal liability for corporate obligations. 305

Sec. 1707.01. As used in this chapter: 306

(A) Whenever the context requires it, "division" or "division 307
of securities" may be read as "director of commerce" or as 308
"commissioner of securities." 309

(B) "Security" means any certificate or instrument that 310
represents title to or interest in, or is secured by any lien or 311
charge upon, the capital, assets, profits, property, or credit of 312
any person or of any public or governmental body, subdivision, or 313
agency. It includes shares of stock, certificates for shares of 314
stock, membership interests in limited liability companies, 315
voting-trust certificates, warrants and options to purchase 316
securities, subscription rights, interim receipts, interim 317
certificates, promissory notes, all forms of commercial paper, 318
evidences of indebtedness, bonds, debentures, land trust 319
certificates, fee certificates, leasehold certificates, syndicate 320
certificates, endowment certificates, certificates or written 321
instruments in or under profit-sharing or participation agreements 322
or in or under oil, gas, or mining leases, or certificates or 323
written instruments of any interest in or under the same, receipts 324
evidencing preorganization or reorganization subscriptions, 325
preorganization certificates, reorganization certificates, 326
certificates evidencing an interest in any trust or pretended 327
trust, any investment contract, any life settlement interest, any 328
instrument evidencing a promise or an agreement to pay money, 329
warehouse receipts for intoxicating liquor, and the currency of 330
any government other than those of the United States and Canada, 331
but sections 1707.01 to 1707.45 of the Revised Code do not apply 332
to the sale of real estate. 333

(C)(1) "Sale" has the full meaning of "sale" as applied by or 334
accepted in courts of law or equity, and includes every 335
disposition, or attempt to dispose, of a security or of an 336
interest in a security. "Sale" also includes a contract to sell, 337
an exchange, an attempt to sell, an option of sale, a solicitation 338
of a sale, a solicitation of an offer to buy, a subscription, or 339
an offer to sell, directly or indirectly, by agent, circular, 340
pamphlet, advertisement, or otherwise. 341

(2) "Sell" means any act by which a sale is made. 342

(3) The use of advertisements, circulars, or pamphlets in 343
connection with the sale of securities in this state exclusively 344
to the purchasers specified in division (D) of section 1707.03 of 345
the Revised Code is not a sale when the advertisements, circulars, 346
and pamphlets describing and offering those securities bear a 347
readily legible legend in substance as follows: "This offer is 348
made on behalf of dealers licensed under sections 1707.01 to 349
1707.45 of the Revised Code, and is confined in this state 350
exclusively to institutional investors and licensed dealers." 351

(4) The offering of securities by any person in conjunction 352
with a licensed dealer by use of advertisement, circular, or 353
pamphlet is not a sale if that person does not otherwise attempt 354
to sell securities in this state. 355

(5) Any security given with, or as a bonus on account of, any 356
purchase of securities is conclusively presumed to constitute a 357
part of the subject of that purchase and has been "sold." 358

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person 359
acting in a representative capacity, includes sale on behalf of 360
such party by an agent, including a licensed dealer or 361
salesperson. 362

(D) "Person," except as otherwise provided in this chapter, 363
means a natural person, firm, partnership, limited partnership, 364

partnership association, syndicate, joint-stock company, 365
unincorporated association, trust or trustee except where the 366
trust was created or the trustee designated by law or judicial 367
authority or by a will, and a corporation or limited liability 368
company organized under the laws of any state, any foreign 369
government, or any political subdivision of a state or foreign 370
government. 371

(E)(1) "Dealer," except as otherwise provided in this 372
chapter, means every person, other than a salesperson, who engages 373
or professes to engage, in this state, for either all or part of 374
the person's time, directly or indirectly, either in the business 375
of the sale of securities for the person's own account, or in the 376
business of the purchase or sale of securities for the account of 377
others in the reasonable expectation of receiving a commission, 378
fee, or other remuneration as a result of engaging in the purchase 379
and sale of securities. "Dealer" does not mean any of the 380
following: 381

(a) Any issuer, including any officer, director, employee, or 382
trustee of, or member or manager of, or partner in, or any general 383
partner of, any issuer, that sells, offers for sale, or does any 384
act in furtherance of the sale of a security that represents an 385
economic interest in that issuer, provided no commission, fee, or 386
other similar remuneration is paid to or received by the issuer 387
for the sale; 388

(b) Any licensed attorney, public accountant, or firm of such 389
attorneys or accountants, whose activities are incidental to the 390
practice of the attorney's, accountant's, or firm's profession; 391
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(c) Any person that, for the account of others, engages in 393
the purchase or sale of securities that are issued and outstanding 394
before such purchase and sale, if a majority or more of the equity 395
interest of an issuer is sold in that transaction, and if, in the 396

case of a corporation, the securities sold in that transaction 397
represent a majority or more of the voting power of the 398
corporation in the election of directors; 399

(d) Any person that brings an issuer together with a 400
potential investor and whose compensation is not directly or 401
indirectly based on the sale of any securities by the issuer to 402
the investor; 403

(e) Any bank, savings and loan association, savings bank, or 404
credit union chartered under the laws of the United States or any 405
state of the United States, provided that all transactions are 406
consummated by or through a person licensed pursuant to section 407
1707.14 of the Revised Code; 408

(f) Any person that the division of securities by rule 409
exempts from the definition of "dealer" under division (E)(1) of 410
this section. 411

(2) "Licensed dealer" means a dealer licensed under this 412
chapter. 413

(F)(1) "Salesman" or "salesperson" means every natural 414
person, other than a dealer, who is employed, authorized, or 415
appointed by a dealer to sell securities within this state. 416

(2) The general partners of a partnership, and the executive 417
officers of a corporation or unincorporated association, licensed 418
as a dealer are not salespersons within the meaning of this 419
definition, nor are such clerical or other employees of an issuer 420
or dealer as are employed for work to which the sale of securities 421
is secondary and incidental; but the division of securities may 422
require a license from any such partner, executive officer, or 423
employee if it determines that protection of the public 424
necessitates the licensing. 425

(3) "Licensed salesperson" means a salesperson licensed under 426
this chapter. 427

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security. 428
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(H) "Director" means each director or trustee of a 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. 430
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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. 436
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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. 440
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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. 450
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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 456
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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
intangible property and includes securities, accounts receivable,
and contract rights, when the securities, accounts receivable, or
contract rights have a readily determinable value.

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

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

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

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

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

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

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also shall be deemed to include registration by coordination unless the context otherwise indicates.

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

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

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

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

(V)(1) "Control bid" means the purchase of or offer to

purchase any equity security of a subject company from a resident 521
of this state if either of the following applies: 522

(a) After the purchase of that security, the offeror would be 523
directly or indirectly the beneficial owner of more than ten per 524
cent of any class of the issued and outstanding equity securities 525
of the issuer. 526

(b) The offeror is the subject company, there is a pending 527
control bid by a person other than the issuer, and the number of 528
the issued and outstanding shares of the subject company would be 529
reduced by more than ten per cent. 530

(2) For purposes of division (V)(1) of this section, "control 531
bid" does not include any of the following: 532

(a) A bid made by a dealer for the dealer's own account in 533
the ordinary course of business of buying and selling securities; 534

(b) An offer to acquire any equity security solely in 535
exchange for any other security, or the acquisition of any equity 536
security pursuant to an offer, for the sole account of the 537
offeror, in good faith and not for the purpose of avoiding the 538
provisions of this chapter, and not involving any public offering 539
of the other security within the meaning of Section 4 of Title I 540
of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), 541
as amended; 542

(c) Any other offer to acquire any equity security, or the 543
acquisition of any equity security pursuant to an offer, for the 544
sole account of the offeror, from not more than fifty persons, in 545
good faith and not for the purpose of avoiding the provisions of 546
this chapter. 547

(W) "Offeror" means a person who makes, or in any way 548
participates or aids in making, a control bid and includes persons 549
acting jointly or in concert, or who intend to exercise jointly or 550
in concert any voting rights attached to the securities for which 551

the control bid is made and also includes any subject company 552
making a control bid for its own securities. 553

(X)(1) "Investment adviser" means any person who, for 554
compensation, engages in the business of advising others, either 555
directly or through publications or writings, as to the value of 556
securities or as to the advisability of investing in, purchasing, 557
or selling securities, or who, for compensation and as a part of 558
regular business, issues or promulgates analyses or reports 559
concerning securities. 560

(2) "Investment adviser" does not mean any of the following: 561

(a) Any attorney, accountant, engineer, or teacher, whose 562
performance of investment advisory services described in division 563
(X)(1) of this section is solely incidental to the practice of the 564
attorney's, accountant's, engineer's, or teacher's profession; 565

(b) A publisher of any bona fide newspaper, news magazine, or 566
business or financial publication of general and regular 567
circulation; 568

(c) A person who acts solely as an investment adviser 569
representative; 570

(d) A bank holding company, as defined in the "Bank Holding 571
Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an 572
investment company; 573

(e) A bank, or any receiver, conservator, or other 574
liquidating agent of a bank; 575

(f) Any licensed dealer or licensed salesperson whose 576
performance of investment advisory services described in division 577
(X)(1) of this section is solely incidental to the conduct of the 578
dealer's or salesperson's business as a licensed dealer or 579
licensed salesperson and who receives no special compensation for 580
the services; 581

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

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

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

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

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

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

beneficial or record equity security holders are resident in this state.

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

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(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.

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(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, 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;~~ 675
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~~(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;~~ 677
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~~(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;~~ 680
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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;~~ 685
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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;~~ 688
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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.~~ 691
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~~(II)(1) "Investment adviser representative" means a~~ 694
supervised person of an investment adviser, provided that the 695
supervised person has more than five clients who are natural 696
persons other than excepted persons defined in division ~~(KK)~~(EE) 697
of this section, and that more than ten per cent of the supervised 698
person's clients are natural persons other than excepted persons 699
defined in division ~~(KK)~~(EE) of this section. "Investment adviser 700
representative" does not mean any of the following: 701

(a) A supervised person that does not on a regular basis 702
solicit, meet with, or otherwise communicate with clients of the 703
investment adviser; 704

(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;

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

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

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

interest. 737

~~(JJ)~~(DD) "Supervised person" means a natural person who is 738
any of the following: 739

(1) A partner, officer, or director of an investment adviser, 740
or other person occupying a similar status or performing similar 741
functions with respect to an investment adviser; 742

(2) An employee of an investment adviser; 743

(3) A person who provides investment advisory services 744
described in division (X)(1) of this section on behalf of the 745
investment adviser and is subject to the supervision and control 746
of the investment adviser. 747

~~(KK)~~(EE) "Excepted person" means a natural person to whom any 748
of the following applies: 749

(1) Immediately after entering into the investment advisory 750
contract with the investment adviser, the person has at least 751
seven hundred fifty thousand dollars under the management of the 752
investment adviser. 753

(2) The investment adviser reasonably believes either of the 754
following at the time the investment advisory contract is entered 755
into with the person: 756

(a) The person has a net worth, together with assets held 757
jointly with a spouse, of more than one million five hundred 758
thousand dollars. 759

(b) The person is a qualified purchaser as defined in 760
division ~~(LL)~~(FF) of this section. 761

(3) Immediately prior to entering into an investment advisory 762
contract with the investment adviser, the person is either of the 763
following: 764

(a) An executive officer, director, trustee, general partner, 765

or person serving in a similar capacity, of the investment
adviser; 766
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(b) An employee of the investment adviser, other than an 768
employee performing solely clerical, secretarial, or 769
administrative functions or duties for the investment adviser, 770
which employee, in connection with the employee's regular 771
functions or duties, participates in the investment activities of 772
the investment adviser, provided that, for at least twelve months, 773
the employee has been performing such nonclerical, nonsecretarial, 774
or nonadministrative functions or duties for or on behalf of the 775
investment adviser or performing substantially similar functions 776
or duties for or on behalf of another company. 777

If subsequent to March 18, 1999, amendments are enacted or 778
adopted defining "excepted person" for purposes of the Investment 779
Advisers Act of 1940 or additional rules or regulations are 780
promulgated by the securities and exchange commission regarding 781
the definition of "excepted person" for purposes of the Investment 782
Advisers Act of 1940, the division of securities shall, by rule, 783
adopt the substance of the amendments, rules, or regulations, 784
unless the division finds that the amendments, rules, or 785
regulations are not necessary for the protection of investors or 786
in the public interest. 787

~~(LL)~~(FF)(1) "Qualified purchaser" means either of the 788
following: 789

(a) A natural person who owns not less than five million 790
dollars in investments as defined by rule by the division of 791
securities; 792

(b) A natural person, acting for the person's own account or 793
accounts of other qualified purchasers, who in the aggregate owns 794
and invests on a discretionary basis, not less than twenty-five 795
million dollars in investments as defined by rule by the division 796

of securities. 797

(2) If subsequent to March 18, 1999, amendments are enacted 798
or adopted defining "qualified purchaser" for purposes of the 799
Investment Advisers Act of 1940 or additional rules or regulations 800
are promulgated by the securities and exchange commission 801
regarding the definition of "qualified purchaser" for purposes of 802
the Investment Advisers Act of 1940, the division of securities 803
shall, by rule, adopt the amendments, rules, or regulations, 804
unless the division finds that the amendments, rules, or 805
regulations are not necessary for the protection of investors or 806
in the public interest. 807

~~(MM)~~(GG)(1) "Purchase" has the full meaning of "purchase" as 808
applied by or accepted in courts of law or equity and includes 809
every acquisition of, or attempt to acquire, a security or an 810
interest in a security. "Purchase" also includes a contract to 811
purchase, an exchange, an attempt to purchase, an option to 812
purchase, a solicitation of a purchase, a solicitation of an offer 813
to sell, a subscription, or an offer to purchase, directly or 814
indirectly, by agent, circular, pamphlet, advertisement, or 815
otherwise. 816

(2) "Purchase" means any act by which a purchase is made. 817

(3) Any security given with, or as a bonus on account of, any 818
purchase of securities is conclusively presumed to constitute a 819
part of the subject of that purchase. 820

~~(NN)~~(HH) "Life settlement interest" means the entire interest 821
or any fractional interest in an insurance policy or certificate 822
of insurance, or in an insurance benefit under such a policy or 823
certificate, that is the subject of a life settlement contract. 824

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For purposes of this division, "life settlement contract" 826
means an agreement for the purchase, sale, assignment, transfer, 827

devise, or bequest of any portion of the death benefit or 828
ownership of any life insurance policy or contract, in return for 829
consideration or any other thing of value that is less than the 830
expected death benefit of the life insurance policy or contract. 831
"Life settlement contract" includes a viatical settlement contract 832
as defined in section 3916.01 of the Revised Code, but does not 833
include any of the following: 834

(1) A loan by an insurer under the terms of a life insurance 835
policy, including, but not limited to, a loan secured by the cash 836
value of the policy; 837

(2) An agreement with a bank that takes an assignment of a 838
life insurance policy as collateral for a loan; 839

(3) The provision of accelerated benefits as defined in 840
section 3915.21 of the Revised Code; 841

(4) Any agreement between an insurer and a reinsurer; 842

(5) An agreement by an individual to purchase an existing 843
life insurance policy or contract from the original owner of the 844
policy or contract, if the individual does not enter into more 845
than one life settlement contract per calendar year; 846

(6) The initial purchase of an insurance policy or 847
certificate of insurance from its owner by a viatical settlement 848
provider, as defined in section 3916.01 of the Revised Code, that 849
is licensed under Chapter 3916. of the Revised Code. 850

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 851
Code and except as provided in division (B) of this section, all 852
partners are liable as follows: 853

(1) Jointly and severally for everything chargeable to the 854
partnership under sections 1775.12 and 1775.13 of the Revised 855
Code. This joint and several liability is not subject to division 856
(D) of section 2315.19 of the Revised Code with respect to a 857

negligence claim that otherwise is subject to that section. 858

(2) Jointly for all other debts and obligations of the 859
partnership, but any partner may enter into a separate obligation 860
to perform a partnership contract. 861

(B) Subject to divisions (C)(1) and (2) of this section or as 862
otherwise provided in a written agreement between the partners of 863
a registered limited liability partnership, a partner in a 864
registered limited liability partnership is not liable, directly 865
or indirectly, by way of indemnification, contribution, 866
assessment, or otherwise, for debts, obligations, or other 867
liabilities of any kind of, or chargeable to, the partnership or 868
another partner or partners arising from negligence or from 869
wrongful acts, errors, omissions, or misconduct, whether or not 870
intentional or characterized as tort, contract, or otherwise, 871
committed or occurring while the partnership is a registered 872
limited liability partnership and committed or occurring in the 873
course of the partnership business by another partner or an 874
employee, agent, or representative of the partnership. 875

(C)(1) Division (B) of this section does not affect the 876
liability of a partner in a registered limited liability 877
partnership for that partner's own negligence, wrongful acts, 878
errors, omissions, or misconduct, including that partner's own 879
negligence, wrongful acts, errors, omissions, or misconduct in 880
directly supervising any other partner or any employee, agent, or 881
representative of the partnership. 882

(2) Division (B) of this section shall not affect the 883
liability of a partner for liabilities imposed by Chapters 5735., 884
5739., 5743., and 5747. and section 3734.908 of the Revised Code. 885

(D) A partner in a registered limited liability partnership 886
is not a proper party to an action or proceeding by or against a 887
registered limited liability partnership with respect to any debt, 888

obligation, or other liability of any kind described in division 889
(B) of this section, unless the partner is liable under divisions 890
(C)(1) and (2) of this section. 891

Sec. 1901.18. (A) Except as otherwise provided in this 892
division or section 1901.181 of the Revised Code, subject to the 893
monetary jurisdiction of municipal courts as set forth in section 894
1901.17 of the Revised Code, a municipal court has original 895
jurisdiction within its territory in all of the following actions 896
or proceedings and to perform all of the following functions: 897

(1) In any civil action, of whatever nature or remedy, of 898
which judges of county courts have jurisdiction; 899

(2) In any action or proceeding at law for the recovery of 900
money or personal property of which the court of common pleas has 901
jurisdiction; 902

(3) In any action at law based on contract, to determine, 903
preserve, and enforce all legal and equitable rights involved in 904
the contract, to decree an accounting, reformation, or 905
cancellation of the contract, and to hear and determine all legal 906
and equitable remedies necessary or proper for a complete 907
determination of the rights of the parties to the contract; 908

(4) In any action or proceeding for the sale of personal 909
property under chattel mortgage, lien, encumbrance, or other 910
charge, for the foreclosure and marshalling of liens on personal 911
property of that nature, and for the rendering of personal 912
judgment in the action or proceeding; 913

(5) In any action or proceeding to enforce the collection of 914
its own judgments or the judgments rendered by any court within 915
the territory to which the municipal court has succeeded, and to 916
subject the interest of a judgment debtor in personal property to 917
satisfy judgments enforceable by the municipal court; 918

(6) In any action or proceeding in the nature of interpleader;	919 920
(7) In any action of replevin;	921
(8) In any action of forcible entry and detainer;	922
(9) In any action concerning the issuance and enforcement of 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;	923 924 925 926 927 928
(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) <u>(B)</u> 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;	929 930 931 932 933 934
(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;	935 936 937 938
(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.	939 940 941 942 943
(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:	944 945 946
(1) In all actions and proceedings for the sale of real property under lien of a judgment of the municipal court or a lien	947 948

for machinery, material, or fuel furnished or labor performed, 949
irrespective of amount, and, in those actions and proceedings, the 950
court may proceed to foreclose and marshal all liens and all 951
vested or contingent rights, to appoint a receiver, and to render 952
personal judgment irrespective of amount in favor of any party. 953

(2) In all actions for the foreclosure of a mortgage on real 954
property given to secure the payment of money or the enforcement 955
of a specific lien for money or other encumbrance or charge on 956
real property, when the amount claimed by the plaintiff does not 957
exceed fifteen thousand dollars and the real property is situated 958
within the territory, and, in those actions, the court may proceed 959
to foreclose all liens and all vested and contingent rights and 960
may proceed to render judgments and make findings and orders 961
between the parties in the same manner and to the same extent as 962
in similar actions in the court of common pleas. 963

(3) In all actions for the recovery of real property situated 964
within the territory to the same extent as courts of common pleas 965
have jurisdiction; 966

(4) In all actions for injunction to prevent or terminate 967
violations of the ordinances and regulations of the city of 968
Cleveland enacted or promulgated under the police power of the 969
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 970
Constitution, over which the court of common pleas has or may have 971
jurisdiction, and, in those actions, the court may proceed to 972
render judgments and make findings and orders in the same manner 973
and to the same extent as in similar actions in the court of 974
common pleas. 975

Sec. 2101.31. All questions of fact shall be determined by 976
the probate judge, unless ~~he the judge~~ orders ~~them~~ those questions 977
of fact to be tried by before a jury, or ~~referred,~~ refers those 978
questions of fact to a special master commissioner as provided in 979

sections 2101.06 and 2101.07, ~~and sections 2315.26 to 2315.37,~~ 980
~~inclusive,~~ of the Revised Code. 981

Sec. 2117.06. (A) All creditors having claims against an 982
estate, including claims arising out of contract, out of tort, on 983
cognovit notes, or on judgments, whether due or not due, secured 984
or unsecured, liquidated or unliquidated, shall present their 985
claims in one of the following manners: 986

(1) To the executor or administrator in a writing; 987

(2) To the executor or administrator in a writing, and to the 988
probate court by filing a copy of the writing with it; 989

(3) In a writing that is sent by ordinary mail addressed to 990
the decedent and that is actually received by the executor or 991
administrator within the appropriate time specified in division 992
(B) of this section. For purposes of this division, if an executor 993
or administrator is not a natural person, the writing shall be 994
considered as being actually received by the executor or 995
administrator only if the person charged with the primary 996
responsibility of administering the estate of the decedent 997
actually receives the writing within the appropriate time 998
specified in division (B) of this section. 999

(B) All claims shall be presented within one year after the 1000
death of the decedent, whether or not the estate is released from 1001
administration or an executor or administrator is appointed during 1002
that one-year period. Every claim presented shall set forth the 1003
claimant's address. 1004

(C) A claim that is not presented within one year ~~ater~~ after 1005
the death of the decedent shall be forever barred as to all 1006
parties, including, but not limited to, devisees, legatees, and 1007
distributees. No payment shall be made on the claim and no action 1008
shall be maintained on the claim, except as otherwise provided in 1009
sections 2117.37 to 2117.42 of the Revised Code, with reference to 1010

contingent claims. 1011

(D) In the absence of any prior demand for allowance, the 1012
executor or administrator shall allow or reject all claims, except 1013
tax assessment claims, within thirty days after their 1014
presentation, provided that failure of the executor or 1015
administrator to allow or reject within that time shall not 1016
prevent ~~him~~ the executor or administrator from doing so after that 1017
time and shall not prejudice the rights of any claimant. Upon the 1018
allowance of a claim, the executor or the administrator, on demand 1019
of the creditor, shall furnish the creditor with a written 1020
statement or memorandum of the fact and date of such allowance. 1021

(E) If the executor or administrator has actual knowledge of 1022
a pending action commenced against the decedent prior to ~~his~~ the 1023
decedent's death in a court of record in this state, such executor 1024
or administrator shall file a notice of his the appointment of the 1025
executor or administrator in such pending action within ten days 1026
after acquiring such knowledge. If the administrator or executor 1027
is not a natural person, actual knowledge of a pending suit 1028
against the decedent shall be limited to the actual knowledge of 1029
the person charged with the primary responsibility of 1030
administering the estate of the decedent. Failure to file the 1031
notice within the ten-day period does not extend the claim period 1032
established by this section. 1033

(F) This section applies to any person who is required to 1034
give written notice to the executor or administrator of a motion 1035
or application to revive an action pending against the decedent at 1036
the date of the death of the decedent. 1037

(G) Nothing in this section or in section 2117.07 of the 1038
Revised Code shall be construed to reduce the time mentioned in 1039
section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the 1040
Revised Code, provided that no portion of any recovery on a claim 1041
brought pursuant to any of those sections shall come from the 1042

assets of an estate, unless the claim has been presented against 1043
the estate in accordance with Chapter 2117. of the Revised Code. 1044

(H) Any person whose claim has been presented, and not 1045
thereafter rejected, is a creditor as that term is used in 1046
Chapters 2113. to 2125. of the Revised Code. Claims that are 1047
contingent need not be presented except as provided in sections 1048
2117.37 to 2117.42 of the Revised Code, but, whether presented 1049
pursuant to those sections or this section, contingent claims may 1050
be presented in any of the manners described in division (A) of 1051
this section. 1052

(I) If a creditor presents a claim against an estate in 1053
accordance with division (A)(2) of this section, the probate court 1054
shall not close the administration of the estate until that claim 1055
is allowed or rejected. 1056

(J) The probate court shall not require an executor or 1057
administrator to make and return into the court a schedule of 1058
claims against the estate. 1059

(K) If the executor or administrator makes a distribution of 1060
the assets of the estate prior to the expiration of the time for 1061
the filing of claims as set forth in this section, he the executor 1062
or administrator shall provide notice to each distributee as 1063
provided in section 2113.533 of the Revised Code. 1064

Sec. 2125.01. When the death of a person is caused by 1065
wrongful act, neglect, or default which would have entitled the 1066
party injured to maintain an action and recover damages if death 1067
had not ensued, the person who would have been liable if death had 1068
not ensued, or the administrator or executor of the estate of such 1069
person, as such administrator or executor, shall be liable to an 1070
action for damages, ~~notwithstanding~~ notwithstanding the death of 1071
the person injured and although the death was caused under 1072
circumstances which make it aggravated murder, murder, or 1073

manslaughter. When the action is against such administrator or 1074
executor, the damages recovered shall be a valid claim against the 1075
estate of such deceased person. No action for the wrongful death 1076
of a person may be maintained against the owner or lessee of the 1077
real property upon which the death occurred if the cause of the 1078
death was the violent unprovoked act of a party other than the 1079
owner, lessee, or a person under the control of the owner or 1080
lessee, unless the acts or omissions of the owner, lessee, or 1081
person under the control of the owner or lessee constitute gross 1082
negligence. 1083

When death is caused by a wrongful act, neglect, or default 1084
in another state or foreign country, for which a right to maintain 1085
an action and recover damages is given by a statute of such other 1086
state or foreign country, such right of action may be enforced in 1087
this state. Every such action shall be commenced within the time 1088
prescribed for the commencement of such actions by the statute of 1089
such other state or foreign country. 1090

The same remedy shall apply to any such cause of action now 1091
existing and to any such action commenced before January 1, 1932, 1092
or attempted to be commenced in proper time and now appearing on 1093
the files of any court within this state, and no prior law of this 1094
state shall prevent the maintenance of such cause of action. 1095

Sec. 2125.02. (A)(1) Except as provided in this division, an 1096
action for wrongful death shall be brought in the name of the 1097
personal representative of the decedent for the exclusive benefit 1098
of the surviving spouse, the children, and the parents of the 1099
decedent, all of whom are rebuttably presumed to have suffered 1100
damages by reason of the wrongful death, and for the exclusive 1101
benefit of the other next of kin of the decedent. A parent who 1102
abandoned a minor child who is the decedent shall not receive any 1103
benefit in a wrongful death action brought under this division. 1104

(2) The jury, or the court if the action is not tried to a jury, may award damages authorized by division (B) of this section, as it determines are proportioned to the injury and loss resulting to the beneficiaries described in division (A)(1) of this section by reason of the wrongful death and may award the reasonable funeral and burial expenses incurred as a result of the wrongful death. In its verdict, the jury or court shall set forth separately the amount, if any, awarded for the reasonable funeral and burial expenses incurred as a result of the wrongful death.

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

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

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

(iii) Consistent with the Rules of Evidence, any party to an action for wrongful death may present evidence that the surviving

spouse of the decedent is remarried. If such evidence is 1137
presented, then, in addition to the factors described in divisions 1138
(A)(3)(b)(i) and (ii) of this section, the jury or court may 1139
consider that evidence in determining the damages suffered by the 1140
surviving spouse by reason of the wrongful death. 1141

(B) Compensatory damages may be awarded in an action for 1142
wrongful death and may include damages for the following: 1143

(1) Loss of support from the reasonably expected earning 1144
capacity of the decedent; 1145

(2) Loss of services of the decedent; 1146

(3) Loss of the society of the decedent, including loss of 1147
companionship, consortium, care, assistance, attention, 1148
protection, advice, guidance, counsel, instruction, training, and 1149
education, suffered by the surviving spouse, minor children, 1150
parents, or next of kin; 1151

(4) Loss of prospective inheritance to the decedent's heirs 1152
at law at the time of ~~his~~ the decedent's death; 1153

(5) The mental anguish incurred by the surviving spouse, 1154
minor children, parents, or next of kin. 1155

(C) A personal representative appointed in this state, with 1156
the consent of the court making the appointment and at any time 1157
before or after the commencement of an action for wrongful death, 1158
may settle with the defendant the amount to be paid. 1159

(D) An action for wrongful death shall be commenced within 1160
two years after the decedent's death. 1161

(E)(1) If the personal representative of a deceased minor has 1162
actual knowledge or reasonable cause to believe that the minor was 1163
abandoned by a parent seeking to benefit from the wrongful death 1164
action or if any person listed in division (A)(1) of this section 1165
who is permitted to benefit in a wrongful death action filed in 1166

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

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

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

(F) As used in this section:

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

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

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

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

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

(3) "Abandoned" means that a parent of a minor failed without justifiable cause to communicate with the minor, care for ~~him~~ the minor, and provide for ~~his~~ the maintenance or support of the minor

as required by law or judicial decree for a period of at least one 1230
year immediately prior to the date of the death of the minor. 1231

(4) "Minor" means a person who is less than eighteen years of 1232
age. 1233

Sec. 2125.04. In every action for wrongful death commenced or 1234
attempted to be commenced within the time specified by section 1235
2125.02 of the Revised Code, if a judgment for the plaintiff is 1236
reversed or if the plaintiff fails otherwise than upon the merits, 1237
and the time limited by such section for the commencement of such 1238
action has expired at the date of such reversal or failure, the 1239
plaintiff or, if ~~he~~ the plaintiff dies and the cause of action 1240
survives, ~~his~~ the personal representative of the plaintiff may 1241
commence a new action within one year after such date. 1242

Sec. 2305.01. The court of common pleas has original 1243
jurisdiction in all civil cases in which the sum or matter in 1244
dispute exceeds the exclusive original jurisdiction of county 1245
courts and appellate jurisdiction from the decisions of boards of 1246
county commissioners. 1247

The court of common pleas may on its own motion transfer for 1248
trial any action in the court to any municipal court in the county 1249
having concurrent jurisdiction of the subject matter of, and the 1250
parties to, the action, if the amount sought by the plaintiff does 1251
not exceed one thousand dollars and if the judge or presiding 1252
judge of the municipal court concurs in the proposed transfer. 1253
Upon the issuance of an order of transfer, the clerk of courts 1254
shall remove to the designated municipal court the entire case 1255
file. Any untaxed portion of the common pleas deposit for court 1256
costs shall be remitted to the municipal court by the clerk of 1257
courts to be applied in accordance with section 1901.26 of the 1258
Revised Code, and the costs taxed by the municipal court shall be 1259
added to any costs taxed in the common pleas court. 1260

The court of common pleas has jurisdiction 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.

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

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

For purposes of this section, a cause of action for bodily injury caused by exposure to asbestos or to chromium in any of its chemical forms arises upon the date on which the plaintiff is informed by competent medical authority that ~~he~~ the plaintiff has been injured by 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 had been injured by the exposure, whichever date occurs first.

For purposes of this section, a cause of action for bodily injury incurred by a veteran through exposure to chemical defoliants or herbicides or other causative agents, including

agent orange, arises upon the date on which the plaintiff is 1292
informed by competent medical authority that ~~he~~ the plaintiff has 1293
been injured by such exposure. 1294

As used in this section, "agent orange," "causative agent," 1295
and "veteran" have the same meanings as in section 5903.21 of the 1296
Revised Code. 1297

For purposes of this section, a cause of action for bodily 1298
injury which may be caused by exposure to diethylstilbestrol or 1299
other nonsteroidal synthetic estrogens, including exposure before 1300
birth, upon the date on which the plaintiff learns from a licensed 1301
physician that ~~he~~ the plaintiff has an injury which may be related 1302
to such exposure, or upon the date on which by the exercise of 1303
reasonable diligence ~~he~~ the plaintiff should have become aware 1304
that ~~he~~ the plaintiff has an injury which may be related to such 1305
exposure, whichever date occurs first. 1306

Sec. 2305.11. (A) An action for libel, slander, malicious 1307
prosecution, or false imprisonment, an action for malpractice 1308
other than an action upon a medical, dental, optometric, or 1309
chiropractic claim, or an action upon a statute for a penalty or 1310
forfeiture shall be commenced within one year after the cause of 1311
action accrued, provided that an action by an employee for the 1312
payment of unpaid minimum wages, unpaid overtime compensation, or 1313
liquidated damages by reason of the nonpayment of minimum wages or 1314
overtime compensation shall be commenced within two years after 1315
the cause of action accrued. 1316

(B)(1) Subject to division (B)(2) of this section, an action 1317
upon a medical, dental, optometric, or chiropractic claim shall be 1318
commenced within one year after the cause of action accrued, 1319
except that, if prior to the expiration of that one-year period, a 1320
claimant who allegedly possesses a medical, dental, optometric, or 1321
chiropractic claim gives to the person who is the subject of that 1322

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
unsound mind, as provided by section 2305.16 of the Revised Code:

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

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

(C) A civil action for unlawful abortion pursuant to section
2919.12 of the Revised Code, a civil action authorized by division
(H) of section 2317.56 of the Revised Code, a civil action
pursuant to division (B)(1) or (2) of section 2307.51 of the
Revised Code for performing a dilation and extraction procedure or
attempting to perform a dilation and extraction procedure in
violation of section 2919.15 of the Revised Code, and a civil
action pursuant to division (B)(1) or (2) of section 2307.52 of
the Revised Code for terminating or attempting to terminate a
human pregnancy after viability in violation of division (A) or
(B) of section 2919.17 of the Revised Code shall be commenced
within one year after the performance or inducement of the
abortion, within one year after the attempt to perform or induce
the abortion in violation of division (A) or (B) of section

2919.17 of the Revised Code, within one year after the performance
of the dilation and extraction procedure, or, in the case of a
civil action pursuant to division (B)(2) of section 2307.51 of the
Revised Code, within one year after the attempt to perform the
dilation and extraction procedure.

(D) As used in this section:

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

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

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

- (4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board. 1386
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- (5) "Dentist" means any person who is licensed to practice dentistry by the state dental board. 1388
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- (6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person. 1390
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- (7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following: 1396
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- (a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse; 1404
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- (b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment. 1408
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- (8) "Registered nurse" means any person who is licensed to 1416

practice nursing as a registered nurse by the state board of 1417
nursing. 1418

(9) "Chiropractic claim" means any claim that is asserted in 1419
any civil action against a chiropractor, or against any employee 1420
or agent of a chiropractor, and that arises out of the 1421
chiropractic diagnosis, care, or treatment of any person. 1422
"Chiropractic claim" includes derivative claims for relief that 1423
arise from the chiropractic diagnosis, care, or treatment of a 1424
person. 1425

(10) "Chiropractor" means any person who is licensed to 1426
practice chiropractic by the chiropractic examining board. 1427

(11) "Optometric claim" means any claim that is asserted in 1428
any civil action against an optometrist, or against any employee 1429
or agent of an optometrist, and that arises out of the optometric 1430
diagnosis, care, or treatment of any person. "Optometric claim" 1431
includes derivative claims for relief that arise from the 1432
optometric diagnosis, care, or treatment of a person. 1433

(12) "Optometrist" means any person licensed to practice 1434
optometry by the state board of optometry. 1435

(13) "Physical therapist" means any person who is licensed to 1436
practice physical therapy under Chapter 4755. of the Revised Code. 1437

Sec. 2305.16. Unless otherwise provided in sections 1302.98, 1438
1304.35, and 2305.04 to 2305.14 of the Revised Code, if a person 1439
entitled to bring any action mentioned in those sections, unless 1440
for penalty or forfeiture, is, at the time the cause of action 1441
accrues, within the age of minority or of unsound mind, the person 1442
may bring it within the respective times limited by those 1443
sections, after the disability is removed. When the interests of 1444
two or more parties are joint and inseparable, the disability of 1445
one shall inure to the benefit of all. 1446

After the cause of action accrues, if the person entitled to 1447
bring the action becomes of unsound mind and is adjudicated as 1448
such by a court of competent jurisdiction or is confined in an 1449
institution or hospital under a diagnosed condition or disease 1450
which renders ~~him~~ the person of unsound mind, the time during 1451
which ~~he~~ the person is of unsound mind and so adjudicated or so 1452
confined shall not be computed as any part of the period within 1453
which the action must be brought. 1454

Sec. 2305.25. ~~(A) No health care entity hospital, no state or~~ 1455
~~local society,~~ and no individual who is a member of or ~~works on~~ 1456
~~behalf~~ employee of any of the following ~~boards or~~ committees of ~~a~~ 1457
~~health care entity or of any of the following corporations~~ shall 1458
be liable in damages to any person for any acts, omissions, 1459
decisions, or other conduct within the scope of the functions of 1460
the ~~board, committee, or corporation:~~ 1461

~~(1)~~(A) A peer utilization review committee, quality 1462
assurance, or tissue committee of a hospital or long-term care 1463
facility, a nonprofit health care corporation which is a member of 1464
the hospital or long-term care facility or of which the hospital 1465
or facility is a member, or a community mental health center; 1466

~~(2)~~(B) A board or committee of a hospital or long-term care 1467
facility or of a nonprofit health care corporation which is a 1468
member of the hospital or long-term care facility or of which the 1469
hospital or long-term care facility is a member reviewing 1470
professional qualifications or activities of the medical staff of 1471
the hospital or long-term care facility or applicants for 1472
admission to the medical staff; 1473

~~(3)~~(C) A utilization committee of a state or local society 1474
composed of doctors of medicine, doctors of osteopathic medicine, 1475
or doctors of podiatric medicine; 1476

~~(4)~~(D) A peer review committee, professional standards review 1477

committee, or arbitration committee of a state or local society 1478
composed of doctors of medicine, doctors of osteopathic medicine, 1479
doctors of dentistry, doctors of optometry, doctors of podiatric 1480
medicine, psychologists, or pharmacists; 1481

~~(5)~~(E) A peer review committee of a health insuring 1482
corporation that has at least a two-thirds majority of member 1483
physicians in active practice and that conducts professional 1484
credentialing and quality review activities involving the 1485
competence or professional conduct of health care providers, which 1486
conduct adversely affects, or could adversely affect, the health 1487
or welfare of any patient. For purposes of this division, "health 1488
insuring corporation" includes wholly owned subsidiaries of a 1489
health insuring corporation. 1490

~~(6)~~(F) A peer review committee of any insurer authorized 1491
under Title XXXIX of the Revised Code to do the business of 1492
sickness and accident insurance in this state that has at least a 1493
two-thirds majority of physicians in active practice and that 1494
conducts professional credentialing and quality review activities 1495
involving the competence or professional conduct of health care 1496
providers, which conduct adversely affects, or could adversely 1497
affect, the health or welfare of any patient; 1498

~~(7)~~(G) A peer review committee of any insurer authorized 1499
under Title XXXIX of the Revised Code to do the business of 1500
sickness and accident insurance in this state that has at least a 1501
two-thirds majority of physicians in active practice and that 1502
conducts professional credentialing and quality review activities 1503
involving the competence or professional conduct of a health care 1504
facility that has contracted with the insurer to provide health 1505
care services to insureds, which conduct adversely affects, or 1506
could adversely affect, the health or welfare of any patient; 1507

~~(8)~~ A peer review committee of an insurer authorized under 1508
Title XXXIX of the Revised Code to do the business of medical 1509

~~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;~~

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

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

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

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

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

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

~~(d) The hospital, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent qualified person with staff privileges at the hospital would provide fraudulent medical treatment but failed to limit the qualified person's privileges prior to treating the plaintiff at the hospital.~~ 1541-1547

~~(3) If the plaintiff fails to rebut the presumption provided in division (B)(1) of this section, upon the motion of the hospital, the court shall enter judgment in favor of the hospital on the claim of negligent credentialing.~~ 1548-1551

~~(C) Nothing in this section otherwise shall relieve any individual or health care entity hospital from liability arising from treatment of a patient or resident. Nothing in this section shall be construed as creating an exception to section 2305.251 of the Revised Code.~~ 1552-1556

~~This section shall also apply to any member or employee of a nonprofit corporation engaged in performing the functions of a peer review committee of nursing home providers or administrators or of a peer review or professional standards review committee.~~ 1557-1560

~~(D) No person who provides information under this section without malice and in the reasonable belief that the information is warranted by the facts known to the person shall be subject to suit for civil damages as a result of providing the information.~~ 1561-1564

~~(E) As used in this section:~~ 1565

~~(1) "Peer review committee" means a utilization review committee, quality assurance committee, quality improvement committee, tissue committee, credentialing committee, or other committee that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care practitioners.~~ 1566-1571

~~(2) "Health care entity" means a government entity, a for-profit or nonprofit corporation, a limited liability company, a partnership, a professional corporation, a state or local society as described in division (A)(3) of this section, or other 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 1602
of the Revised Code shall be held in confidence and shall not be 1603
subject to discovery or introduction in evidence in any civil 1604
action against a health care professional, a hospital, a long-term 1605
care facility, a not-for-profit health care corporation that is a 1606
member of a hospital or long-term care facility or of which a 1607
hospital or long-term care facility is a member, or another health 1608
care ~~entity~~ institution arising out of matters that are the 1609
subject of evaluation and review by the ~~review board,~~ committee, 1610
~~or corporation~~. No person in attendance at a meeting of a review 1611
~~board, committee, or corporation~~ or serving as a member ~~or~~ 1612
~~employee~~ of a review board, committee, ~~or corporation~~ shall be 1613
permitted or required to testify in any civil action as to any 1614
evidence or other matters produced or presented during the 1615
proceedings of the ~~review board, committee, or corporation~~ or as 1616
to any finding, recommendation, evaluation, opinion, or other 1617
action of the ~~review board, committee, or corporation~~ or a member 1618
~~or employee of it~~ thereof. Information, documents, or records 1619
otherwise available from original sources are not to be construed 1620
as being unavailable for discovery or for use in any civil action 1621
merely because they were presented during proceedings of a ~~review~~ 1622
~~board, committee, or corporation,~~ nor should any person testifying 1623
before a ~~review board, committee, or corporation~~ or who is a 1624
member ~~or employee~~ of the ~~review board, committee, or corporation~~ 1625
be prevented from testifying as to matters within the person's 1626
knowledge, but the witness cannot be asked about the witness's 1627
testimony before the ~~review board, committee, or corporation~~ or an 1628
opinion formed by the witness as a result of the ~~review board,~~ 1629
~~committee, or corporation~~ hearing. ~~An order by a court to produce~~ 1630
~~for discovery or for use at trial the proceedings or records~~ 1631
~~described in this section is a final order.~~ 1632

Sec. 2305.27. Except as provided in section 2743.02 of the 1633

Revised Code, in any medical claim, as defined in division (D) of 1634
section 2305.11 of the Revised Code, an award of damages shall not 1635
be reduced by insurance proceeds or payments or other benefits 1636
paid under any insurance policy or contract where the premium or 1637
cost of such insurance policy or contract was paid either by or 1638
for the person who has obtained the award, or by ~~his~~ the person's 1639
employer, or both, or by direct payments from ~~his~~ the person's 1640
employer, but shall be reduced by any other collateral recovery 1641
for medical and hospital care, custodial care or rehabilitation 1642
services, and loss of earned income. Unless otherwise expressly 1643
provided by statute, a collateral source of indemnity shall not be 1644
subrogated to the claimant against a physician, podiatrist, or 1645
hospital. 1646

Sec. 2305.35. (A) As used in this section: 1647

(1) "Agency" has the same meaning as in section 2305.37 of 1648
the Revised Code. 1649

(2) "Donor" means an owner, lessee, renter, or operator of a 1650
farm or other real property who gives permission to a gleaner to 1651
enter the property to salvage free-of-charge food items remaining 1652
on the property for subsequent donations of the food items to, or 1653
subsequent distributions of the food items by, an agency or 1654
nonprofit organization. 1655

(3) "Gleaner" means any person that, with the permission of 1656
the owner, lessee, renter, or operator of a farm or other real 1657
property, enters the property to salvage free-of-charge food items 1658
remaining on the property for subsequent donations of the food 1659
items to, or subsequent distributions of the food items by, an 1660
agency or nonprofit organization. 1661

(4) "Hazard" means a risk of serious physical harm to persons 1662
or property. 1663

(5) "Nonprofit organization" means a corporation, 1664
association, group, institution, society, or other organization 1665
that is exempt from federal income taxation under section 1666
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 1667
26 U.S.C. 501(c)(3), as amended. 1668

(6) "Tort action" means a civil action for damages for 1669
injury, death, or loss to person or property. "Tort action" 1670
includes a product liability claim that is subject to sections 1671
2307.71 to 2307.80 of the Revised Code but does not include a 1672
civil action for damages for a breach of contract or another 1673
agreement between persons. 1674

(B)(1) Except as provided in division (B)(2) of this section, 1675
a donor is not liable in damages to any person in a tort action 1676
for injury, death, or loss to person or property sustained by a 1677
gleaner as a result of any of the following: 1678

(a) Any condition of the farm or other real property on which 1679
the gleaner is salvaging food items; 1680

(b) Any normal agricultural operations occurring on the farm 1681
or other real property on which the gleaner is salvaging food 1682
items; 1683

(c) Any risks of physical harm to persons or property 1684
involved in salvaging the food items the gleaner is salvaging. 1685

(2) The immunity described in division (B)(1) of this section 1686
does not apply to a donor in a tort action for injury, death, or 1687
loss to person or property sustained by a gleaner as a result of 1688
any condition, operations, or risks described in division 1689
(B)(1)(a), (b), or (c) of this section if the injury, death, or 1690
loss to person or property sustained by the gleaner was caused by 1691
any of the following actions or omissions: 1692

(a) An action or omission of the donor that constitutes 1693
negligence, if that negligence involves one or both of the 1694

following:	1695
(i) The failure of the donor to warn the gleaner of a hazard of which the donor had actual knowledge prior to the gleaner entering the property;	1696 1697 1698
(ii) The creation or enhancement of a hazard by the donor prior to the gleaner entering the property.	1699 1700
(b) An action or omission of the donor that constitutes willful or wanton misconduct or intentionally tortious conduct;	1701 1702
(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:	1703 1704 1705 1706 1707
(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;	1708 1709 1710 1711
(ii) The creation or enhancement of a hazard by the employee, family member, or other associated person prior to the gleaner entering the property.	1712 1713 1714
(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.	1715 1716 1717 1718
(C)(1) This section does not create a new cause of action or substantive legal right against donors.	1719 1720
(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.	1721 1722 1723 1724

Sec. 2305.37. (A) As used in this section:	1725
(1) "Agency" means any nonhospital, charitable nonprofit corporation that is organized and operated pursuant to Chapter 1702. of the Revised Code and that satisfies both of the following, or any nonhospital, charitable association, group, institution, organization, or society that is not organized and not operated for profit and that satisfies both of the following:	1726 1727 1728 1729 1730 1731
(a) It distributes perishable food, directly or indirectly, to individuals in need.	1732 1733
(b) It does not charge or accept any form of compensation from the individuals in need for the distribution of the perishable food to them.	1734 1735 1736
(2) "Food service operation" has the same meaning as in section 3717.01 of the Revised Code.	1737 1738
(3) "Food that is gleaned" means perishable food that remains on a farm or other real property and that the owner, lessee, renter, or operator of the property permits one or more persons to salvage free-of-charge for subsequent donation to one or more agencies.	1739 1740 1741 1742 1743
(4) "Harm" means injury, death, or loss to person or property.	1744 1745
(5) "Hospital" has the same meaning as in section 2108.01, 3701.01, or 5122.01 of the Revised Code.	1746 1747
(6) "Individuals in need" means those persons who an agency determines are eligible to receive free distributions of perishable food because of poverty, illness, disability, infancy, or other conditions or circumstances that may result in persons having a need to receive free distributions of perishable food.	1748 1749 1750 1751 1752
(7) "Perishable food" means any food that may spoil or	1753

otherwise become unfit for human consumption because of its 1754
nature, age, or physical condition. "Perishable food" includes, 1755
but is not limited to, fresh meats, processed meats, poultry, fish 1756
and other seafood, dairy products, bakery products, eggs in the 1757
shell, fresh fruits, fresh vegetables, food that is gleaned, food 1758
that is packaged, refrigerated, or frozen, food that is canned, 1759
and prepared or other food that has not been served by a 1760
restaurant, cafeteria, hospital, hotel, caterer, or other food 1761
service operation to any customer, patient, or other person in the 1762
ordinary course of business, by a public or private school, 1763
college, university, or other educational institution to a student 1764
or another person on the premises in the ordinary course of the 1765
operation of the institution, or by a fraternal, veteran's, or 1766
other organization to its members or other persons on the premises 1767
in the ordinary course of the operation of the organization. 1768

(8) "Person" has the same meaning as in section 1.59 of the 1769
Revised Code and additionally includes governmental entities. 1770

(9) "Sale date" has the same meaning as in section 3715.171 1771
of the Revised Code. 1772

(10) "Tort action" means a civil action for damages for 1773
injury, death, or loss to person or property. "Tort action" 1774
includes a product liability claim that is subject to sections 1775
2307.71 to 2307.80 of the Revised Code but does not include a 1776
civil action for a breach of contract or another agreement between 1777
persons. 1778

(B) Notwithstanding Chapter 3715. of the Revised Code, a 1779
person who, in good faith, donates perishable food to an agency is 1780
not liable in damages in a tort action for harm that allegedly 1781
arises because that perishable food, when distributed by the 1782
agency or any other agency to a particular individual in need, is 1783
not fit for human consumption, if both of the following apply: 1784

(1) Prior to the donation of the perishable food to the agency, the person determines that the perishable food will be fit for human consumption at the time of its donation. A presumption favoring liability does not arise because the perishable food is donated to an agency on or after an applicable sale date.

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

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

(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 persons who donate perishable food other than to agencies may be entitled.

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

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

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

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

(2) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the

services that ~~he~~ the volunteer performs for a charitable 1815
organization, and that are reimbursed to the volunteer or 1816
otherwise paid. 1817

(3) "Corporate services" means services that are performed by 1818
a volunteer who is associated with a charitable organization as 1819
defined in division (A)(1)(a) of this section and that reflect 1820
duties or responsibilities arising under Chapter 1702. of the 1821
Revised Code. 1822

(4) "Supervisory services" means services that are performed 1823
by a volunteer who is associated with a charitable organization as 1824
defined in division (A)(1)(a) or (b) of this section and that 1825
involve duties and responsibilities in connection with the 1826
supervision of one or more officers, employees, trustees, or other 1827
volunteers of that charitable organization. 1828

(5) "Volunteer" means an officer, trustee, or other person 1829
who performs services for a charitable organization but does not 1830
receive compensation, either directly or indirectly, for those 1831
services. 1832

(B) A volunteer is not liable in damages in a civil action 1833
for injury, death, or loss to ~~persons~~ person or property that 1834
arises from the actions or omissions of any of the officers, 1835
employees, trustees, or other volunteers of the charitable 1836
organization for which ~~he~~ the volunteer performs services, unless 1837
either of the following applies: 1838

(1) With prior knowledge of an action or omission of a 1839
particular officer, employee, trustee, or other volunteer, the 1840
volunteer authorizes, approves, or otherwise actively participates 1841
in that action or omission+. 1842

(2) After an action or omission of a particular officer, 1843
employee, trustee, or other volunteer, the volunteer, with full 1844
knowledge of that action or omission, ratifies it. 1845

(C) A volunteer is not liable in damages in a civil action 1846
for injury, death, or loss to ~~persons~~ person or property that 1847
arises from ~~his~~ the volunteer's actions or omissions in connection 1848
with any supervisory or corporate services that ~~he~~ the volunteer 1849
performs for the charitable organization, unless either of the 1850
following applies: 1851

(1) An action or omission of the volunteer involves conduct 1852
as described in division (B)(1) or (2) of this section; 1853

(2) An action or omission of the volunteer constitutes 1854
willful or wanton misconduct or intentionally tortious conduct. 1855

(D) A volunteer is not liable in damages in a civil action 1856
for injury, death, or loss to ~~persons~~ person or property that 1857
arises from ~~his~~ the volunteer's actions or omissions in connection 1858
with any nonsupervisory or noncorporate services that ~~he~~ the 1859
volunteer performs for the charitable organization, unless either 1860
of the following applies: 1861

(1) An action or omission of the volunteer involves conduct 1862
as described in division (B)(1) or (2) of this section; 1863

(2) An action or omission of the volunteer constitutes 1864
negligence, willful or wanton misconduct, or intentionally 1865
tortious conduct. 1866

(E)(1) This section does not create, ~~and shall not be~~ 1867
~~construed as creating,~~ a new cause of action or substantive legal 1868
right against a volunteer. 1869

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

this section are not intended to affect the liability of a 1877
charitable organization in a civil action for injury, death, or 1878
loss to ~~persons~~ person or property. 1879

Sec. ~~2307.24~~ 2307.16. A partnership formed for the purpose of 1880
carrying on a trade or business in this state, or holding property 1881
in this state, may sue or be sued by the usual or ordinary name 1882
~~which is~~ that it has assumed, or by which it is known. 1883
1884

Sec. ~~2307.27~~ 2307.17. In an action for the recovery of real 1885
or personal property, a person claiming an interest in the 1886
property, on ~~his~~ application, may be made a party. 1887

Sec. ~~2307.30~~ 2307.18. ~~An~~ A judicial officer against whom an 1888
action is brought to recover personal property taken by ~~him~~ the 1889
officer on execution, or for the proceeds of such property sold by 1890
~~him~~ the officer, upon exhibiting to the court the process under 1891
which ~~he~~ the officer acted, with ~~his~~ the officer's affidavit that 1892
the property was taken or sold by ~~him~~ the officer under such 1893
process, may have the benefit of ~~section 2307.29 of the Revised~~ 1894
~~Code~~ Civil Rule 22, against the party in whose favor the execution 1895
issued. 1896

Sec. 2307.31. (A) Except as otherwise provided in this 1897
section or section 2307.32 of the Revised Code, if two or more 1898
persons are jointly and severally liable in tort for the same 1899
injury or loss to person or property or for the same wrongful 1900
death, there is a right of contribution among them even though 1901
judgment has not been recovered against all or any of them. The 1902
right of contribution exists only in favor of a tortfeasor who has 1903
paid more than ~~his~~ that tortfeasor's proportionate share of the 1904
common liability, and ~~his~~ that tortfeasor's total recovery is 1905

limited to the amount paid by ~~him~~ that tortfeasor in excess of ~~his~~ that tortfeasor's proportionate share. No tortfeasor is compelled to make contribution beyond ~~his~~ that tortfeasor's own 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.

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

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

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

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

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(C) If there is no judgment for the injury or loss to person
or property or the wrongful death against the tortfeasor seeking
contribution, ~~his~~ that tortfeasor's right of contribution is
barred unless ~~he~~ that tortfeasor either has discharged by payment
the common liability within the statute of limitations period
applicable to the claimant's right of action against ~~him~~ that

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tortfeasor and has commenced ~~his~~ that tortfeasor's action for 1968
contribution within one year after payment, or has agreed while an 1969
action is pending against ~~him~~ that tortfeasor to discharge the 1970
common liability and has within one year after the agreement paid 1971
the common liability and commenced ~~his~~ that tortfeasor's action 1972
for contribution. 1973

(D) The recovery of a judgment for an injury or loss to 1974
person or property or a wrongful death against one tortfeasor does 1975
not of itself discharge the other tortfeasors from liability for 1976
the injury, loss, or wrongful death unless the judgment is 1977
satisfied. The satisfaction of the judgment does not impair any 1978
right of contribution. 1979

(E) Valid answers to interrogatories by a jury or findings of 1980
fact by a court sitting without a jury in determining the 1981
liability of the several defendants for an injury or loss to 1982
person or property or a wrongful death shall be binding as among 1983
such defendants in determining their right to contribution. 1984

(F) When a release or a covenant not to sue or not to enforce 1985
judgment is given in good faith to one of two or more persons 1986
liable in tort for the same injury or loss to person or property 1987
or the same wrongful death, the following apply: 1988

(1) The release or covenant does not discharge any of the 1989
other tortfeasors from liability for the injury, loss, or wrongful 1990
death unless its terms otherwise provide, but it reduces the claim 1991
against the other tortfeasors to the extent of any amount 1992
stipulated by the release or the covenant, or in the amount of the 1993
consideration paid for it, whichever is the greater. 1994

(2) The release or covenant discharges the tortfeasor to whom 1995
it is given from all liability for contribution to any other 1996
tortfeasor. 1997

Sec. 2307.33. (A) Neither section 2307.31 nor 2307.32 of the 1998

Revised Code applies to a negligence claim to the extent that 1999
division (D) of section 2315.19 of the Revised Code makes a party 2000
against whom a judgment is entered liable to the complainant only 2001
for the proportionate share of that party as described in division 2002
(D)(1)(a) of that section. 2003

(B) Sections 2307.31 and 2307.32 of the Revised Code apply to 2004
a negligence claim if division (D) of section 2315.19 of the 2005
Revised Code is not applicable to that claim. 2006

Sec. 2307.60. ~~(A)~~ Anyone injured in person or property by a 2007
criminal act has, and may recover full damages in, a civil action 2008
unless specifically excepted by law, may recover the costs of 2009
maintaining the civil action and attorney's fees if authorized by 2010
any provision of the Rules of Civil Procedure or another section 2011
of the Revised Code or under the common law of this state, and may 2012
recover punitive or exemplary damages if authorized by section 2013
2315.21 or another section of the Revised Code. ~~A No~~ record of a 2014
conviction, unless obtained by confession in open court, shall ~~not~~ 2015
be used as evidence in a civil action brought pursuant to ~~division~~ 2016
~~(A)~~ of this section. 2017

~~(B)(1) As used in division (B) of this section:~~ 2018

~~(a) "Harm" means injury, death, or loss to person or 2019
property. 2020~~

~~(b) "Tort action" means a civil action for damages for 2021
injury, death, or loss to person or property other than a civil 2022
action for damages for a breach of contract or another agreement 2023
between persons "Tort action" includes, but is not limited to, a 2024
product liability claim, an action for wrongful death under 2025
Chapter 2125. of the Revised Code, and an action based on 2026
derivative claims for relief. 2027~~

~~(2) Recovery on a claim for relief in a tort action is barred 2028~~

~~to any person or the person's legal representative if the person
has been convicted of or has pleaded guilty to a felony, or to a
misdemeanor that is an offense of violence, arising out of
criminal conduct that was a proximate cause of the injury or loss
for which relief is claimed in the action.~~

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

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

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

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

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

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

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(iii) One hundred fifty dollars, if the value of the property

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was more than one hundred dollars at the time it was willfully 2059
damaged or was the subject of a theft offense. 2060

(b) Liquidated damages in whichever of the following amounts 2061
is greater: 2062

(i) Two hundred dollars; 2063

(ii) Three times the value of the property at the time it was 2064
willfully damaged or was the subject of a theft offense, 2065
irrespective of whether the property is recovered by way of 2066
replevin or otherwise, is destroyed or otherwise damaged, is 2067
modified or otherwise altered, or is resalable at its full market 2068
price. This division does not apply to a check, negotiable order 2069
of withdrawal, share draft, or other negotiable instrument that 2070
was returned or dishonored for insufficient funds by a financial 2071
institution if the check, negotiable order of withdrawal, share 2072
draft, or other negotiable instrument was presented by an 2073
individual borrower to a check-cashing business licensed pursuant 2074
to sections 1315.35 to 1315.44 of the Revised Code for a 2075
check-cashing loan transaction. 2076

(2) In a civil action in which the value of the property that 2077
was willfully damaged or was the subject of a theft offense is 2078
less than five thousand dollars, the property owner may recover 2079
damages as described in division (A)(1)(a) or (b) of this section 2080
and additionally may recover the reasonable administrative costs, 2081
if any, of the property owner that were incurred in connection 2082
with actions taken pursuant to division (A)(2) of this section, 2083
the cost of maintaining the civil action, and reasonable 2084
attorney's fees, if all of the following apply: 2085

(a) The property owner, at least thirty days prior to the 2086
filing of the civil action, serves a written demand for payment of 2087
moneys as described in division (A)(1)(a) of this section and the 2088
reasonable administrative costs, if any, of the property owner 2089

that have been incurred in connection with actions taken pursuant 2090
to division (A)(2) of this section, upon the person who willfully 2091
damaged the property or committed the theft offense. 2092

(b) The demand conforms to the requirements of division (C) 2093
of this section and is sent by certified mail, return receipt 2094
requested. 2095

(c) Either the person who willfully damaged the property or 2096
committed the theft offense does not make payment to the property 2097
owner of the amount specified in the demand within thirty days 2098
after the date of its service upon that person and does not enter 2099
into an agreement with the property owner during that thirty-day 2100
period for that payment or the person who willfully damaged the 2101
property or committed the theft offense enters into an agreement 2102
with the property owner during that thirty-day period for that 2103
payment but does not make that payment in accordance with the 2104
agreement. 2105

(B) If a property owner who brings a civil action pursuant to 2106
~~division (A) of~~ section 2307.60 of the Revised Code to recover 2107
damages for willful damage to property or for a theft offense 2108
attempts to collect the reasonable administrative costs, if any, 2109
of the property owner that have been incurred in connection with 2110
actions taken pursuant to division (A)(2) of this section, the 2111
cost of maintaining the civil action, and reasonable attorney's 2112
fees under authority of that division and if the defendant 2113
prevails in the civil action, the defendant may recover from the 2114
property owner reasonable attorney's fees, the cost of defending 2115
the civil action, and any compensatory damages that may be proven. 2116

(C) For purposes of division (A)(2) of this section, a 2117
written demand for payment shall include a conspicuous notice to 2118
the person upon whom the demand is to be served that indicates all 2119
of the following: 2120

(1) The willful property damage or theft offense that the 2121
person allegedly committed; 2122

(2) That, if the person makes payment of the amount specified 2123
in the demand within thirty days after its service upon the person 2124
or enters into an agreement with the property owner during that 2125
thirty-day period for that payment and makes that payment in 2126
accordance with the agreement, the person cannot be sued by the 2127
property owner in a civil action in relation to the willful 2128
property damage or theft offense; 2129

(3) That, if the person fails to make payment of the amount 2130
specified in the demand within thirty days after the date of its 2131
service upon the person and fails to enter into an agreement for 2132
that payment with the property owner during that thirty-day period 2133
or enters into an agreement for that payment with the property 2134
owner during that thirty-day period but does not make that payment 2135
in accordance with the agreement, the person may be sued in a 2136
civil action in relation to the willful property damage or theft 2137
offense; 2138

(4) The potential judgment that the person may be required to 2139
pay if the person is sued in a civil action in relation to the 2140
willful property damage or theft offense and judgment is rendered 2141
against the person in that civil action; 2142

(5) That, if the person is sued in a civil action by the 2143
property owner in relation to the willful property damage or theft 2144
offense, if the civil action requests that the person be required 2145
to pay the reasonable administrative costs, if any, of the 2146
property owner that have been incurred in connection with actions 2147
taken pursuant to division (A)(2) of this section, the cost of 2148
maintaining the action, and reasonable attorney's fees, and if the 2149
person prevails in the civil action, the person may recover from 2150
the property owner reasonable attorney's fees, the cost of 2151
defending the action, and any compensatory damages that can be 2152

proved.

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(D) If a property owner whose property was willfully damaged
or was the subject of a theft offense serves a written demand for
payment upon a person who willfully damaged the property or
committed the theft offense and if the person makes payment of the
amount specified in the demand within thirty days after the date
of its service upon the person or the person enters into an
agreement with the property owner during that thirty-day period
for that payment and makes payment in accordance with the
agreement, the property owner shall not file a civil action
against the person in relation to the willful property damage or
theft offense.

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

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

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(G)(1) In a civil action to recover damages for willful
property damage or for a theft offense, the trier of fact may

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determine that an owner's property was willfully damaged or that a theft offense involving the owner's property has been committed, whether or not any person has pleaded guilty to or has been 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:	2215
(1) A person who asserts a product liability claim or on whose behalf such a claim is asserted;	2216 2217
(2) If a product liability claim is asserted on behalf of the surviving spouse, children, parents, or other next of kin of a decedent or on behalf of the estate of a decedent, whether as a claim in a wrongful death action under Chapter 2125. of the Revised Code or as a survivorship claim, whichever of the following is appropriate:	2218 2219 2220 2221 2222 2223
(a) The decedent, if the reference is to the person who allegedly sustained harm or economic loss for which, or in connection with which, compensatory damages or punitive or exemplary damages are sought to be recovered;	2224 2225 2226 2227
(b) The personal representative of the decedent or the estate of the decedent, if the reference is to the person who is asserting or has asserted the product liability claim.	2228 2229 2230
(B) "Economic loss" means direct, incidental, or consequential pecuniary loss, including, but not limited to, damage to the product in question, and nonphysical damage to property other than that product. Harm is not "economic loss."	2231 2232 2233 2234
(C) "Environment" means navigable waters, surface water, ground water, drinking water supplies, land surface, subsurface strata, and air.	2235 2236 2237
(D) "Ethical drug" means a prescription drug that is prescribed or dispensed by a physician or any other person who is legally authorized to prescribe or dispense a prescription drug.	2238 2239 2240
(E) "Ethical medical device" means a medical device that is prescribed, dispensed, or implanted by a physician or any other person who is legally authorized to prescribe, dispense, or implant a medical device and that is regulated under the "Federal	2241 2242 2243 2244

Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392,	2245
as amended.	2246
(F) "Foreseeable risk" means a risk of harm that satisfies	2247
both of the following:	2248
(1) It is associated with an intended or reasonably	2249
foreseeable use, modification, or alteration of a product in	2250
question;	2251
(2) It is a risk that the manufacturer in question should	2252
recognize while exercising both of the following:	2253
(a) The attention, perception, memory, knowledge, and	2254
intelligence that a reasonable manufacturer should possess;	2255
(b) Any superior attention, perception, memory, knowledge, or	2256
intelligence that the manufacturer in question possesses.	2257
(G) "Harm" means death, physical injury to person, serious	2258
emotional distress, or physical damage to property other than the	2259
product in question. Economic loss is not "harm."	2260
(H) "Hazardous or toxic substances" include, but are not	2261
limited to, hazardous waste as defined in section 3734.01 of the	2262
Revised Code, hazardous waste as specified in the rules of the	2263
director of environmental protection pursuant to division (A) of	2264
section 3734.12 of the Revised Code, hazardous substances as	2265
defined in section 3716.01 of the Revised Code, and hazardous	2266
substances, pollutants, and contaminants as defined in or by	2267
regulations adopted pursuant to the "Comprehensive Environmental	2268
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767,	2269
42 U.S.C. 9601, as amended.	2270
(I) "Manufacturer" means a person engaged in a business to	2271
design, formulate, produce, create, make, construct, assemble, or	2272
rebuild a product or a component of a product.	2273
(J) "Person" has the same meaning as in division (C) of	2274

section 1.59 of the Revised Code and also includes governmental entities.	2275 2276
(K) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board.	2277 2278 2279
(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:	2280 2281 2282 2283
(a) It is capable of delivery itself, or as an assembled whole in a mixed or combined state, or as a component or ingredient;	2284 2285 2286
(b) It is produced, manufactured, or supplied for introduction into trade or commerce;	2287 2288
(c) It is intended for sale or lease to persons for commercial or personal use.	2289 2290
(2) "Product" does not include human tissue, blood, or organs.	2291 2292
(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:	2293 2294 2295 2296 2297 2298
(1) The design, formulation, production, construction, creation, assembly, rebuilding, testing, or marketing of that product;	2299 2300 2301
(2) Any warning or instruction, or lack of warning or instruction, associated with that product;	2302 2303
(3) Any failure of that product to conform to any relevant	2304

representation or warranty.	2305
(N) "Representation" means an express representation of a material fact concerning the character, quality, or safety of a product.	2306 2307 2308
(O)(1) "Supplier" means, subject to division (O)(2) of this section, either of the following:	2309 2310
(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;	2311 2312 2313 2314
(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.	2315 2316 2317
(2) "Supplier" does not include any of the following:	2318
(a) A manufacturer;	2319
(b) A seller of real property;	2320
(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;	2321 2322 2323
(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.	2324 2325 2326 2327 2328
(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.	2329 2330 2331 2332
Sec. 2307.72. (A) Any recovery of compensatory damages based	2333

on a product liability claim is subject to sections 2307.71 to 2334
2307.79 of the Revised Code. 2335

(B) Any recovery of punitive or exemplary damages in 2336
connection with a product liability claim is subject to sections 2337
2307.71 to 2307.80 of the Revised Code. 2338

(C) Any recovery of compensatory damages for economic loss 2339
based on a claim that is asserted in a civil action, other than a 2340
product liability claim, is not subject to sections 2307.71 to 2341
2307.79 of the Revised Code, but may occur under the common law of 2342
this state or other applicable sections of the Revised Code. 2343

(D)(1) Sections 2307.71 to 2307.80 of the Revised Code do not 2344
supersede, modify, or otherwise affect any statute, regulation, or 2345
rule of this state or of the United States, or the common law of 2346
this state or of the United States, that relates to liability in 2347
compensatory damages or punitive or exemplary damages for injury, 2348
death, or loss to person or property, or to relief in the form of 2349
the abatement of a nuisance, civil penalties, cleanup costs, cost 2350
recovery, an injunction or temporary restraining order, or 2351
restitution, that arises, in whole or in part, from contamination 2352
or pollution of the environment or a threat of contamination or 2353
pollution of the environment, including contamination or pollution 2354
or a threat of contamination or pollution from hazardous or toxic 2355
substances. 2356

(2) Consistent with the Rules of Civil Procedure, in the same 2357
civil action against the same defendant or different defendants, a 2358
claimant may assert both of the following: 2359

(a) A product liability claim, including a claim for the 2360
recovery of punitive or exemplary damages in connection with a 2361
product liability claim; 2362

(b) A claim for the recovery of compensatory damages or 2363
punitive or exemplary damages for injury, death, or loss to person 2364

or property, or for relief in the form of the abatement of a
nuisance, civil penalties, cleanup costs, cost recovery, an
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.	2396
Sec. 2307.75. (A) Subject to divisions (D), (E), and (F) of	2397
this section, a product is defective in design or formulation if	2398
either of the following applies:	2399
(1) When it left the control of its manufacturer, the	2400
foreseeable risks associated with its design or formulation as	2401
determined pursuant to division (B) of this section exceeded the	2402
benefits associated with that design or formulation as determined	2403
pursuant to division (C) of this section;	2404
(2) It is more dangerous than an ordinary consumer would	2405
expect when used in an intended or reasonably foreseeable manner.	2406
(B) The foreseeable risks associated with the design or	2407
formulation of a product shall be determined by considering	2408
factors including, but not limited to, the following:	2409
(1) The nature and magnitude of the risks of harm associated	2410
with that design or formulation in light of the intended and	2411
reasonably <u>reasonably</u> foreseeable uses, modifications, or	2412
alterations of the product;	2413
(2) The likely awareness of product users, whether based on	2414
warnings, general knowledge, or otherwise, of those risks of harm;	2415
(3) The likelihood that that design or formulation would	2416
cause harm in light of the intended and reasonably foreseeable	2417
uses, modifications, or alterations of the product;	2418
(4) The extent to which that design or formulation conformed	2419
to any applicable public or private product standard that was in	2420
effect when the product left the control of its manufacturer.	2421
(C) The benefits associated with the design or formulation of	2422
a product shall be determined by considering factors including,	2423
but not limited to, the following:	2424

(1) The intended or actual utility of the product, including 2425
any performance or safety advantages associated with that design 2426
or formulation; 2427

(2) The technical and economic feasibility, when the product 2428
left the control of its manufacturer, of using an alternative 2429
design or formulation; 2430

(3) The nature and magnitude of any foreseeable risks 2431
associated with such an alternative design or formulation. 2432

(D) An ethical drug or ethical medical device is not 2433
defective in design or formulation because some aspect of it is 2434
unavoidably unsafe, if the manufacturer of the ethical drug or 2435
ethical medical device provides adequate warning and instruction 2436
under section 2307.76 of the Revised Code concerning that 2437
unavoidably unsafe aspect. 2438

(E) A product is not defective in design or formulation if 2439
the harm for which the claimant seeks to recover compensatory 2440
damages was caused by an inherent characteristic of the product 2441
which is a generic aspect of the product that cannot be eliminated 2442
without substantially compromising the product's usefulness or 2443
desirability and which is recognized by the ordinary person with 2444
the ordinary knowledge common to the community. 2445

(F) A product is not defective in design or formulation if, 2446
at the time the product left the control of its manufacturer, a 2447
practical and technically feasible alternative design or 2448
formulation was not available that would have prevented the harm 2449
for which the claimant seeks to recover compensatory damages 2450
without substantially impairing the usefulness or intended purpose 2451
of the product, unless the manufacturer acted unreasonably in 2452
introducing the product into trade or commerce. 2453

Sec. 2307.78. (A) Subject to division (B) of this section, a 2454

supplier is subject to liability for compensatory damages based on 2455
a product liability claim only if the claimant establishes, by a 2456
preponderance of the evidence, that either of the following 2457
applies: 2458

(1) The supplier in question was negligent and that, 2459
negligence was a proximate cause of harm for which the claimant 2460
seeks to recover compensatory damages; 2461

(2) The product in question did not conform, when it left the 2462
control of the supplier in question, to a representation made by 2463
that supplier, and that representation and the failure to conform 2464
to it were a proximate cause of harm for which the claimant seeks 2465
to recover compensatory damages. A supplier is subject to 2466
liability for such a representation and the failure to conform to 2467
it even though the supplier did not act fraudulently, recklessly, 2468
or negligently in making the representation. 2469

(B) A supplier of a product is subject to liability for 2470
compensatory damages based on a product liability claim under 2471
sections 2307.71 to 2307.77 of the Revised Code, as if it were the 2472
manufacturer of that product, if the manufacturer of that product 2473
is or would be subject to liability for compensatory damages based 2474
on a product liability claim under sections 2307.71 to 2307.77 of 2475
the Revised Code and any of the following applies: 2476

(1) The manufacturer of that product is not subject to 2477
judicial process in this state; 2478

(2) The claimant will be unable to enforce a judgment against 2479
the manufacturer of that product due to actual or asserted 2480
insolvency of the manufacturer; 2481

(3) The supplier in question owns or, when it supplied that 2482
product, owned, in whole or in part, the manufacturer of that 2483
product; 2484

(4) The supplier in question is owned or, when it supplied that product, was owned, in whole or in part, by the manufacturer of that product;

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

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

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

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

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

(B) Whether the trier of fact is a jury or the court, if the trier of fact determines that a manufacturer or supplier in question is liable for punitive or exemplary damages in connection with a product liability claim, the amount of those damages shall be determined by the court. In determining the amount of punitive or exemplary damages, the court shall consider factors including, but not limited to, the following:

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

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

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

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

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

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

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

(C) If a claimant alleges in a product liability claim that a drug caused harm to ~~him~~ the claimant, the manufacturer of the drug shall not be liable for punitive or exemplary damages in connection with that product liability claim if the drug that

allegedly caused the harm was manufactured and labeled in relevant 2545
and material respects in accordance with the terms of an approval 2546
or license issued by the federal food and drug administration 2547
under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 2548
(1938), 21 U.S.C. 301-392, as amended, or the "Public Health 2549
Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as 2550
amended, unless it is established by a preponderance of the 2551
evidence, that the manufacturer fraudulently and in violation of 2552
applicable regulations of the food and drug administration 2553
withheld from the food and drug administration information known 2554
to be material and relevant to the harm that the claimant 2555
allegedly suffered or misrepresented to the food and drug 2556
administration information of that type. For purposes of this 2557
division, "drug" has the meaning given to that term in section 2558
~~1201(g)(1)~~ of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 2559
1040, 1041 (1938), 21 U.S.C. ~~301-392~~ 321(g)(1), as amended. 2560

Sec. 2315.01. When the jury is sworn, unless for special 2561
reasons the court otherwise directs, the trial shall proceed in 2562
the following order except as provided in section 2315.02 of the 2563
Revised Code: 2564

(A) The plaintiff concisely must state ~~his~~ the plaintiff's 2565
claim, and briefly may state ~~his~~ the plaintiff's evidence to 2566
sustain it. 2567

(B) The defendant must then briefly state ~~his~~ the defendant's 2568
defense, and briefly may state ~~his~~ the defendant's evidence in 2569
support of it. 2570

(C) The party who would be defeated if no evidence were 2571
offered on either side, first, must produce ~~his~~ that party's 2572
evidence, and the adverse party must then produce ~~his~~ the adverse
party's evidence. 2573
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(D) The parties then shall be confined to rebutting evidence, 2575

unless the court for good reasons, in the furtherance of justice, 2576
permits them to offer evidence in their original cases. 2577

(E) When the evidence is concluded, either party may present 2578
written instructions to the court on matters of law and request 2579
them to be given to the jury, which instructions shall be given or 2580
refused by the court before the argument to the jury is commenced. 2581

(F) The parties then may submit or argue the case to the 2582
jury. The party required first to produce ~~his~~ that party's 2583
evidence shall have the opening and closing arguments. If several 2584
defendants, having separate defenses, appear by different counsel, 2585
the court shall arrange their relative order. 2586

(G) The court, after the argument is concluded, before 2587
proceeding with other business, shall charge the jury. Any charge 2588
shall be reduced to writing by the court if either party, before 2589
the argument to the jury is commenced, requests it. Such charge 2590
may be examined by the parties before any closing argument is made 2591
by any of the parties. A charge or instruction, when so written 2592
and given, shall not be orally qualified, modified, or in any 2593
manner explained to the jury by the court. All written charges and 2594
instructions shall be taken by the jurors in their retirement, 2595
returned with their verdict into court, and shall remain on file 2596
with the papers of the case. 2597

Sec. 2313.46. Sections 2313.01 to 2313.46, ~~inclusive,~~ and 2598
~~2315.01 to 2315.24, inclusive,~~ Chapter 2315. of the Revised Code 2599
do not contravene or affect any section of the Revised Code 2600
relating to jurors in the inferior courts in any county of the 2601
state. 2602

Sec. ~~2315.07~~ 2315.05. Because of the sickness of a juror, or 2603
an accident or calamity which requires it, or with the consent of 2604
both parties, or after jurors have been kept together until it 2605

satisfactorily appears that there is no probability of their 2606
agreeing, the court may discharge the jury. 2607

Sec. ~~2315.08~~ 2315.06. When the jury is discharged during a 2608
trial or after a cause is submitted, such cause may at once be 2609
tried again, or on a future day, as the court directs. 2610

Sec. ~~2315.18~~ 2315.07. ~~Except as otherwise provided in this~~ 2611
~~section, when~~ If by the verdict in a civil action tried to a jury 2612
any party in the action is entitled to recover money from an 2613
adverse party, the jury shall determine the amount of the recovery 2614
in its verdict. ~~A jury shall not determine the amount of punitive~~ 2615
~~or exemplary damages recoverable by a party in a tort action~~ 2616
~~pursuant to section 2315.21 or another section of the Revised Code~~ 2617
~~except as provided in division (D)(5) of section 2315.21 of the~~ 2618
~~Revised Code.~~ 2619

~~As used in this section, "tort action" has the same meaning~~ 2620
~~as in section 2315.21 of the Revised Code.~~ 2621

Sec. ~~2315.23~~ 2315.08. So far as in their nature applicable, 2622
sections 2315.01 to 2315.19, ~~inclusive,~~ of the Revised Code, 2623
respecting trials by jury, apply to trials by the court. 2624

Sec. ~~2315.24~~ 2315.09. Parties to a question ~~which~~ that might 2625
be the subject of a civil action, on filing an affidavit that the 2626
controversy is real and the proceeding in good faith to determine 2627
their rights, may agree upon a case containing the facts upon 2628
which the controversy depends and present a submission of it to 2629
any court of competent jurisdiction, ~~which.~~ The court shall hear 2630
and determine the case and render judgment as if an action were 2631
pending. 2632

The case, the submission, and the judgment constitutes the 2633
record of a question submitted under this section. 2634

Such judgment shall be with costs, may be enforced, and shall 2635
be subject to reversal, in like manner, as if it were rendered in 2636
an action, unless otherwise provided in the submission. 2637

Sec. 2315.19. (A)(1) Contributory negligence or implied 2638
assumption of the risk of the complainant or of the person for 2639
whom the complainant is legal representative may be asserted as an 2640
affirmative defense to a negligence claim. 2641

(2) Contributory negligence or implied assumption of the risk 2642
of a person does not bar the person or ~~his~~ the person's legal 2643
representative as complainant from recovering damages that have 2644
directly and proximately resulted from the negligence of one or 2645
more other persons, if the contributory negligence or implied 2646
assumption of the risk of the complainant or of the person for 2647
whom ~~he~~ the complainant is legal representative was no greater 2648
than the combined negligence of all other persons from whom the 2649
complainant seeks recovery. However, any compensatory damages 2650
recoverable by the complainant shall be diminished by an amount 2651
that is proportionately equal to the percentage of negligence or 2652
implied assumption of the risk of the complainant or of the person 2653
for whom ~~he~~ the complainant is legal representative, which 2654
percentage is determined pursuant to division (B) of this section. 2655
This section does not apply to actions described in section 2656
4113.03 of the Revised Code. 2657

(B) If contributory negligence or implied assumption of the 2658
risk is asserted and established as an affirmative defense to a 2659
negligence claim, the court in a nonjury action shall make 2660
findings of fact, and the jury in a jury action shall return a 2661
general verdict accompanied by answers to interrogatories, that 2662
shall specify the following: 2663

(1) The total amount of the compensatory damages that would 2664
have been recoverable on that negligence claim but for the 2665

negligence or implied assumption of the risk of the complainant or 2666
the person for whom ~~he~~ the complainant is legal representative; 2667

(2) The portion of the compensatory damages specified under 2668
division (B)(1) of this section that represents economic loss; 2669

(3) The portion of the compensatory damages specified under 2670
division (B)(1) of this section that represents noneconomic loss; 2671

(4) The percentage of negligenc or implied assumption of the 2672
risk that directly and proximately caused the injury, death, or 2673
loss to person or property, in relation to one hundred per cent, 2674
that is attributable to the complainant or the person for whom he 2675
is legal representative, and the percentage of negligence that 2676
directly and proximately caused the injury, death, or loss to 2677
person or property, in relation to one hundred per cent, that is 2678
attributable to each party to the action from whom the complainant 2679
seeks recovery. If the court or jury must determine percentages of 2680
negligence under this division for two or more parties from whom 2681
the complainant seeks recovery and an issue of vicarious 2682
liability, including, but not limited to, liability of a principal 2683
or master for the negligent actions or omissions of an agent or 2684
servant, exists relative to those parties, then, for purposes of 2685
determining such percentages, the court in a nonjury action shall 2686
determine, or the jury in a jury action pursuant to an instruction 2687
from the court shall determine, that the parties in question are 2688
to be treated as a single party to the extent that any vicarious 2689
liability is determined to exist relative to those parties. 2690

(C) After the court makes its findings of fact or after the 2691
jury returns its general verdict accompanied by answers to 2692
interrogatories as described in division (B) of this section, the 2693
court shall diminish the total amount of the compensatory damages 2694
that would have been recoverable by an amount that is 2695
proportionately equal to the percentage of negligence or implied 2696
assumption of the risk that is attributable to the complainant or 2697

the person for whom ~~he~~ the complainant is legal representative, 2698
which percentage was determined pursuant to division (B) of this 2699
section. If the percentage of the negligence or implied assumption 2700
of the risk that is attributable to the complainant or the person 2701
for whom ~~he~~ the complainant is legal representative is greater 2702
than the total of the percentages of the negligence that is 2703
attributable to all parties from whom the complainant seeks 2704
recovery, which percentages were determined pursuant to division 2705
(B) of this section, the court shall enter judgment in favor of 2706
those parties. 2707

(D)(1) If contributory negligence or implied assumption of 2708
the risk is asserted as an affirmative defense to a negligence 2709
claim, if it is determined that the complainant or the person for 2710
whom ~~he~~ the complainant is legal representative was contributorily 2711
negligent or impliedly assumed a risk and that such contributory 2712
negligence or implied assumption of the risk was a direct and 2713
proximate cause of the injury, death, or loss to person or 2714
property in question, and if the complainant is entitled to 2715
recover compensatory damages pursuant to this section from more 2716
than one party, then, after it makes findings of fact or after the 2717
jury returns its general verdict accompanied by answers to 2718
interrogatories as described in division (B) of this section, the 2719
court shall enter a judgment that is in favor of the complainant 2720
and that states all of the following: 2721

(a) Proportionate shares of the portion of the compensatory 2722
damages that represents noneconomic loss for each party against 2723
whom the judgment is entered and for the complainant or the person 2724
for whom he is legal representative, which shares shall be 2725
computed by multiplying the portion of the compensatory damages 2726
that represents noneconomic loss as determined pursuant to 2727
division (B)(3) of this section by the respective percentages of 2728
negligence or implied assumption of the risk as determined 2729

pursuant to division (B)(4) of this section;	2730
(b) In relation to the portion of the compensatory damages that represents noneconomic loss as determined pursuant to division (B)(3) of this section, each party against whom the judgment is entered is liable to the complainant only for the proportionate share of that party as described in division (D)(1)(a) of this section;	2731 2732 2733 2734 2735 2736
(c) In relation to the portion of the compensatory damages that represents economic loss as determined pursuant to division (B)(2) of this section, each party against whom the judgment is entered is jointly and severally liable to the complainant for the entire amount of economic loss for which the complainant is entitled to judgment as determined pursuant to divisions (B)(2) and (C) of this section.	2737 2738 2739 2740 2741 2742 2743
(2) Sections 2307.31 and 2307.32 of the Revised Code apply in relation to the portion of the compensatory damages that represents economic loss and for which joint and several liability attaches under division (D)(1)(c) of this section.	2744 2745 2746 2747
(E) As used in this section:	2748
(1) "Economic loss" means any of the following types of pecuniary harm:	2749 2750
(a) All wages, salaries, or other compensation lost as a result of an injury, death, or loss to person or property that is a subject of a negligence claim;	2751 2752 2753
(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury, death, or loss to person or property that is a subject of a negligence claim;	2754 2755 2756 2757 2758
(c) Any other expenditures incurred as a result of an injury,	2759

death, or loss to person or property that is a subject of a 2760
negligence claim. 2761

(2) "Negligence claim" means a civil action for damages for 2762
injury, death, or loss to person or property to the extent that 2763
such damages are sought or recovered based on allegation or proof 2764
of negligence. 2765

(3) "Noneconomic loss" means nonpecuniary harm that results 2766
from an injury, death, or loss to person or property that is a 2767
subject of a negligence claim, including, but not limited to, pain 2768
and suffering, loss of society, consortium, companionship, care, 2769
assistance, attention, protection, advice, guidance, counsel, 2770
instruction, training, or education, mental anguish, and any other 2771
intangible loss. 2772

Sec. 2315.20. (A) As used in this section, "claimant," 2773
"harm," "product liability claim," and "supplier" have the same 2774
meanings as in section 2307.71 of the Revised Code. 2775

(B)(1) Express or implied assumption of the risk may be 2776
asserted as an affirmative defense to a product liability claim 2777
under sections 2307.71 to 2307.80 of the Revised Code. 2778

(2) Subject to division (B)(3) of this section, if express or 2779
implied assumption of the risk is asserted as an affirmative 2780
defense to a product liability claim under sections 2307.71 to 2781
2307.80 of the Revised Code and if it is determined that the 2782
claimant expressly or impliedly assumed a risk and that such 2783
express or implied assumption of the risk was a direct and 2784
proximate cause of harm for which the claimant seeks to recover 2785
damages, the express or implied assumption of the risk is a 2786
complete bar to the recovery of those damages. 2787

(3) If implied assumption of the risk is asserted as an 2788
affirmative defense to a product liability claim against a 2789

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 and the amount of those 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; 2851

(3) The burden of proof upon a plaintiff in question to 2852
recover punitive or exemplary damages from a defendant in question 2853
in a tort action is one other than clear and convincing evidence; 2854

(4) Punitive or exemplary damages are not recoverable from a 2855
defendant in question in a tort action; 2856

~~(5) The amount of punitive or exemplary damages awarded 2857
against a defendant in question in a tort action may be determined 2858
by a jury as the trier of fact. 2859~~

Sec. 2317.62. (A) As used in this section: 2860

(1) "Annuity" means an annuity that would be purchased from 2861
either of the following types of insurance companies: 2862

(a) An insurance company that the A.M. Best Company, in its 2863
most recently published rating guide of life insurance companies, 2864
has rated A or better and has rated XII or higher as to financial 2865
size or strength; 2866

(b)(i) An insurance company that the superintendent of 2867
insurance, under rules adopted pursuant to Chapter 119. of the 2868
Revised Code for purposes of implementing this division, 2869
determines is licensed to do business in this state and, 2870
considering the factors described in division (A)(1)(b)(ii) of 2871
this section, is a stable insurance company that issues annuities 2872
that are safe and desirable; 2873

(ii) In making determinations as described in division 2874
(A)(1)(b)(i) of this section, the superintendent shall be guided 2875
by the principle that the trier of fact in a tort action should be 2876
presented only with evidence as to the cost of annuities that are 2877
safe and desirable for the plaintiffs in such an action who are 2878
awarded damages. In making such determinations, the superintendent 2879
shall consider the financial condition, general standing, 2880

operating results, profitability, leverage, liquidity, amount and 2881
soundness of reinsurance, adequacy of reserves, and the management 2882
of any insurance company in question and also may consider 2883
ratings, grades, and classifications of any nationally recognized 2884
rating services of insurance companies and any other factors 2885
relevant to the making of such determinations. 2886

(2) "Future damages" means damages that result from an injury 2887
or loss to person or property that is a subject of a tort action 2888
and that will accrue after the verdict or determination of 2889
liability by the trier of fact is rendered in that tort action. 2890

(3) "Tort action" means a civil action for damages for injury 2891
or loss to person or property. "Tort action" includes a product 2892
liability claim that is subject to sections 2307.71 to 2307.80 of 2893
the Revised Code, but does not include a civil action for damages 2894
for a breach of contract or another agreement between persons. 2895

(4) "Trier of fact" means the jury or, in a nonjury action, 2896
the court. 2897

(B) Consistent with the Rules of Evidence, any party to a 2898
tort action may present evidence of the cost of an annuity in 2899
connection with any issue of recoverable future damages. If such 2900
evidence is presented, then the trier of fact may consider that 2901
evidence in determining the future damages suffered by reason of 2902
an injury or loss to person or property that is a subject of the 2903
tort action. If such evidence is presented, the present value in 2904
dollars of any annuity is its cost. 2905

Sec. 2323.51. (A) As used in this section: 2906

(1) "Conduct" means any of the following: 2907

(a) The filing of a civil action, the assertion of a claim, 2908
defense, or other position in connection with a civil action, or 2909
the taking of any other action in connection with a civil action; 2910

(b) The filing by an inmate of a civil action or appeal against a government entity or employee, the assertion of a claim, defense or other position in connection with a civil action of that nature or the assertion of issues of law in an appeal of that nature, or the taking of any other action in connection with a civil action or appeal of that nature.

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

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

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

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

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

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

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

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

the basis of the current civil action or the issues of law that 2941
are the basis of the current appeal involve the same parties or 2942
arise from the same operative facts as the claim or issues of law 2943
in the previous civil action or appeal. 2944

(3) "Civil action or appeal against a government entity or 2945
employee," "inmate," "political subdivision," and "employee" have 2946
the same meanings as in section 2969.21 of the Revised Code. 2947

(4) "Reasonable attorney's fees" or "attorney's fees," when 2948
used in relation to a civil action or appeal against a government 2949
entity or employee, includes both of the following, as applicable: 2950

(a) The approximate amount of the compensation, and the 2951
fringe benefits, if any, of the attorney general, an assistant 2952
attorney general, or special counsel appointed by the attorney 2953
general that has been or will be paid by the state in connection 2954
with the legal services that were rendered by the attorney 2955
general, assistant attorney general, or special counsel in the 2956
civil action or appeal against the government entity or employee, 2957
including, but not limited to, a civil action or appeal commenced 2958
pro se by an inmate, and that were necessitated by frivolous 2959
conduct of an inmate represented by counsel of record, the counsel 2960
of record of an inmate, or a pro se inmate. 2961

(b) The approximate amount of the compensation, and the 2962
fringe benefits, if any, of a prosecuting attorney or other chief 2963
legal officer of a political subdivision, or an assistant to a 2964
chief legal officer of those natures, who has been or will be paid 2965
by a political subdivision in connection with the legal services 2966
that were rendered by the chief legal officer or assistant in the 2967
civil action or appeal against the government entity or employee, 2968
including, but not limited to, a civil action or appeal commenced 2969
pro se by an inmate, and that were necessitated by frivolous 2970
conduct of an inmate represented by counsel of record, the counsel 2971
of record of an inmate, or a pro se inmate. 2972

(5) "State" has the same meaning as in section 2743.01 of the Revised Code. 2973
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(6) "State correctional institution" has the same meaning as in section 2967.01 of the Revised Code. 2975
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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. 2977
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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: 2989
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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; 2993
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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; 2998
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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 3002
3003

and counsel of record involved to present any relevant evidence at 3004
the hearing, including evidence of the type described in division 3005
(B)(5) of this section, determines that the conduct involved was 3006
frivolous and that a party was adversely affected by it, and then 3007
determines the amount of the award to be made. If any party or 3008
counsel of record who allegedly engaged in or allegedly was 3009
adversely affected by frivolous conduct is confined in a state 3010
correctional institution or in a county, multicounty, municipal, 3011
municipal-county, or multicounty-municipal jail or workhouse, the 3012
court, if practicable, may hold the hearing by telephone or, in 3013
the alternative, at the institution, jail, or workhouse in which 3014
the party or counsel is confined. 3015

(3) The amount of an award made pursuant to division (B)(1) 3016
of this section that represents reasonable attorney's fees shall 3017
not exceed, and may be equal to or less than, whichever of the 3018
following is applicable: 3019

(a) If the party is being represented on a contingent fee 3020
basis, an amount that corresponds to reasonable fees that would 3021
have been charged for legal services had the party been 3022
represented on an hourly fee basis or another basis other than a 3023
contingent fee basis; 3024

(b) In all situations other than that described in division 3025
(B)(3)(a) of this section, the attorney's fees that were 3026
reasonably incurred by a party. 3027

(4) An award made pursuant to division (B)(1) of this section 3028
may be made against a party, the party's counsel of record, or 3029
both. 3030

(5)(a) In connection with the hearing described in division 3031
(B)(2)(a) of this section, each party who may be awarded 3032
reasonable attorney's fees and the party's counsel of record may 3033
submit to the court or be ordered by the court to submit to it, 3034

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 3066
incurred in connection with a particular civil action or appeal in 3067
a specified manner, generally, or subject to limitations. 3068

Sec. 2501.02. Each judge of a court of appeals shall have 3069
been admitted to practice as an attorney at law in this state and 3070
have, for a total of six years preceding ~~his~~ the judge's 3071
appointment or commencement of ~~his~~ the judge's term, engaged in 3072
the practice of law in this state or served as a judge of a court 3073
of record in any jurisdiction in the United States, or both. One 3074
judge shall be chosen in each court of appeals district every two 3075
years, and shall hold office for six years, beginning on the ninth 3076
day of February next after ~~his~~ the judge's election. ~~In~~ 3077

In addition to the original jurisdiction conferred by Section 3078
3 of Article IV, Ohio Constitution, the court shall have 3079
jurisdiction⁺ upon an appeal upon questions of law to review, 3080
affirm, modify, set aside, or reverse judgments or final orders of 3081
courts of record inferior to the court of appeals within the 3082
district, including the finding, order, or judgment of a juvenile 3083
court that a child is delinquent, neglected, abused, or dependent, 3084
for prejudicial error committed by such lower court. 3085

The court, on good cause shown, may issue writs of 3086
supersedeas in any case, and all other writs, not specially 3087
provided for or prohibited by statute, necessary to enforce the 3088
administration of justice. 3089

Sec. 2743.18. (A)(1) Prejudgment interest shall be allowed 3090
with respect to a civil action on which a judgment or 3091
determination is rendered against the state for the same period of 3092
time and at the same rate as allowed between private parties to a 3093
suit. 3094

(2) The court of claims, in its discretion, may deny 3095

prejudgment interest for any period of undue delay between the 3096
commencement of the civil action and the entry of a judgment or 3097
determination against the state, for which it finds the claimant 3098
to have been responsible. 3099

(B)(1) Except as otherwise provided in division (B)(2) of 3100
this section, interest shall be allowed on a judgment or 3101
determination rendered against the state in a civil action 3102
pursuant to this chapter at the same rate that is applicable to 3103
judgments rendered against private parties to a suit as specified 3104
in ~~division (A)~~ of section 1343.03 of the Revised Code and for 3105
each day between the date of entry of the judgment or the 3106
determination pursuant to division (C) of section 2743.10 of the 3107
Revised Code and the date of payment of the judgment or 3108
determination pursuant to division (C)(3) or (6) of section 3109
2743.19 of the Revised Code, or for sixty days from the date of 3110
entry of the judgment or the determination, whichever is less. 3111

(2) If the court of claims renders a judgment pursuant to 3112
this chapter against the state in a civil action or the clerk of 3113
the court of claims enters an administrative determination under 3114
section 2743.10 of the Revised Code against the state in a civil 3115
action, the civil action is not based on tortious conduct, and the 3116
claimant in the court of claims prevails in any appeal of the 3117
judgment or determination, postjudgment interest shall be paid 3118
with respect to the judgment or determination rendered against the 3119
state at the same rate that is applicable to judgments rendered 3120
against private parties to a suit as set forth in ~~division (A)~~ of 3121
section 1343.03 of the Revised Code and for each day between the 3122
date of entry of the judgment or determination and the date of 3123
payment of the judgment or determination pursuant to division 3124
(C)(3) or (6) of section 2743.19 of the Revised Code. 3125

Sec. 2743.19. (A) In rendering a judgment against the state, 3126

the court of claims shall determine and specify in the judgment 3127
the department, office, commission, board, agency, institution, or 3128
other instrumentality of the state against which a determination 3129
of liability has been made. The court of claims shall award 3130
compensation for fees to a prevailing party in an action under 3131
this chapter in accordance with section 2335.39 of the Revised 3132
Code. 3133

(B) No execution shall issue against the state or any 3134
department, board, office, commission, agency, institution, or 3135
other instrumentality of the state upon any judgment for the 3136
payment of money. 3137

(C) Judgments shall be accomplished only through the 3138
following procedure, which may be enforced by writ of mandamus 3139
directed to the appropriate official: 3140

(1) The clerk of the court of claims shall forward a 3141
certified copy of the judgment to the director of budget and 3142
management and the attorney general or the officer who signed the 3143
investigative report for the department, office, commission, 3144
board, agency, institution, or other instrumentality of the state 3145
against which a determination of liability has been made. 3146

(2) The expense of a judgment paid, plus interest at the same 3147
rate that is applicable to judgments rendered against private 3148
parties to a suit as specified in ~~division (A)~~ of section 1343.03 3149
of the Revised Code and for the number of days determined pursuant 3150
to division (B)(1) or (2) of section 2743.18 of the Revised Code, 3151
shall be charged by the director of budget and management against 3152
available unencumbered moneys in the appropriations to whichever 3153
state departments, boards, offices, commissions, agencies, 3154
institutions, or other instrumentalities are named in the 3155
judgment. The director of budget and management shall have sole 3156
discretion to determine whether or not unencumbered moneys in a 3157
particular appropriation are available for satisfaction of a 3158

judgment. 3159

(3) The director of budget and management, upon receipt of 3160
the certified copy of the judgment from the clerk of the court of 3161
claims pursuant to division (C)(1) of this section, shall provide 3162
for payment of the judgment creditor in the amount of the judgment 3163
certified by the clerk of the court of claims, plus interest. 3164

(4) If the director of budget and management determines that 3165
sufficient unencumbered moneys do not exist in the particular 3166
appropriations to pay the judgment and interest, the director may 3167
make application for payment of the judgment and interest out of 3168
the emergency purposes account or another appropriation for 3169
emergencies or contingencies. 3170

(5) If moneys in the emergency purposes account or another 3171
appropriation for emergencies or contingencies are not used to pay 3172
the judgment and interest, the director of budget and management 3173
shall request the general assembly to make an appropriation 3174
sufficient to pay the judgment and interest, and no payment shall 3175
be made until the appropriation has been made. The appropriate 3176
state department, board, office, commission, agency, institution, 3177
or other instrumentality shall make this appropriation request 3178
during the current biennium and during each succeeding biennium 3179
until a sufficient appropriation is made. 3180

(6) If the judgment is against any department, board, office, 3181
commission, agency, institution, or other instrumentality of the 3182
state whose funds are not handled by the director of budget and 3183
management, the instrumentality against which the judgment is 3184
made, within sixty days after the date of the judgment, shall pay 3185
the judgment creditor in the amount of the judgment plus interest 3186
at the same rate that is applicable to judgments rendered against 3187
private parties to a suit as specified in ~~division (A)~~ of section 3188
1343.03 of the Revised Code and for the number of days determined 3189
pursuant to division (B)(1) or (2) of section 2743.18 of the 3190

Revised Code. 3191

(D) No judgment shall be forwarded by the clerk of the court 3192
of claims to the director of budget and management until all 3193
appeals have been determined and all rights to appeal have been 3194
exhausted, except as otherwise provided in this section. If a 3195
party to a civil action against the state appeals from only a 3196
portion of a judgment and if a remaining portion provides for the 3197
payment of money by the state, a certified copy of the judgment 3198
and a copy of the notice of appeal shall be forwarded to the 3199
director, and that part of the judgment calling for the payment of 3200
money by the state and not a subject of the appeal shall be 3201
processed for payment as described in this section. 3202

Sec. 2744.01. As used in this chapter: 3203

(A) "Emergency call" means a call to duty, including, but not 3204
limited to, communications from citizens, police dispatches, and 3205
personal observations by peace officers of inherently dangerous 3206
situations that demand an immediate response on the part of a 3207
peace officer. 3208

(B) "Employee" means an officer, agent, employee, or servant, 3209
whether or not compensated or full-time or part-time, who is 3210
authorized to act and is acting within the scope of the officer's, 3211
agent's, employee's, or servant's employment for a political 3212
subdivision. "Employee" does not include an independent contractor 3213
and does not include any individual engaged by a school district 3214
pursuant to section 3319.301 of the Revised Code. "Employee" 3215
includes any elected or appointed official of a political 3216
subdivision. "Employee" also includes a person who has been 3217
convicted of or pleaded guilty to a criminal offense and who has 3218
been sentenced to perform community service work in a political 3219
subdivision whether pursuant to section 2951.02 of the Revised 3220
Code or otherwise, and a child who is found to be a delinquent 3221

child and who is ordered by a juvenile court pursuant to section 3222
2151.355 of the Revised Code to perform community service or 3223
community work in a political subdivision. 3224

(C)(1) "Governmental function" means a function of a 3225
political subdivision that is specified in division (C)(2) of this 3226
section or that satisfies any of the following: 3227

(a) A function that is imposed upon the state as an 3228
obligation of sovereignty and that is performed by a political 3229
subdivision voluntarily or pursuant to legislative requirement; 3230

(b) A function that is for the common good of all citizens of 3231
the state; 3232

(c) A function that promotes or preserves the public peace, 3233
health, safety, or welfare; that involves activities that are not 3234
engaged in or not customarily engaged in by nongovernmental 3235
persons; and that is not specified in division (G)(2) of this 3236
section as a proprietary function. 3237

(2) A "governmental function" includes, but is not limited 3238
to, the following: 3239

(a) The provision or nonprovision of police, fire, emergency 3240
medical, ambulance, and rescue services or protection; 3241

(b) The power to preserve the peace; to prevent and suppress 3242
riots, disturbances, and disorderly assemblages; to prevent, 3243
mitigate, and clean up releases of oil and hazardous and extremely 3244
hazardous substances as defined in section 3750.01 of the Revised 3245
Code; and to protect persons and property; 3246

(c) The provision of a system of public education; 3247

(d) The provision of a free public library system; 3248

(e) The regulation of the use of, and the maintenance and 3249
repair of, roads, highways, streets, avenues, alleys, sidewalks, 3250
bridges, aqueducts, viaducts, and public grounds; 3251

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;	3252 3253
(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;	3254 3255 3256 3257
(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;	3258 3259 3260 3261
(i) The enforcement or nonperformance of any law;	3262
(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;	3263 3264
(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.	3265 3266 3267 3268 3269 3270 3271 3272 3273 3274 3275 3276
(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;	3277 3278 3279
(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;	3280 3281 3282

(n) The operation of a health board, department, or agency,	3283
including, but not limited to, any statutorily required or	3284
permissive program for the provision of immunizations or other	3285
inoculations to all or some members of the public, provided that a	3286
"governmental function" does not include the supply, manufacture,	3287
distribution, or development of any drug or vaccine employed in	3288
any such immunization or inoculation program by any supplier,	3289
manufacturer, distributor, or developer of the drug or vaccine;	3290
(o) The operation of mental health facilities, mental	3291
retardation or developmental disabilities facilities, alcohol	3292
treatment and control centers, and children's homes or agencies;	3293
(p) The provision or nonprovision of inspection services of	3294
all types, including, but not limited to, inspections in	3295
connection with building, zoning, sanitation, fire, plumbing, and	3296
electrical codes, and the taking of actions in connection with	3297
those types of codes, including, but not limited to, the approval	3298
of plans for the construction of buildings or structures and the	3299
issuance or revocation of building permits or stop work orders in	3300
connection with buildings or structures;	3301
(q) Urban renewal projects and the elimination of slum	3302
conditions;	3303
(r) Flood control measures;	3304
(s) The design, construction, reconstruction, renovation,	3305
operation, care, repair, and maintenance of a township cemetery;	3306
(t) The issuance of revenue obligations under section 140.06	3307
of the Revised Code;	3308
(u) The design, construction, reconstruction, renovation,	3309
repair, maintenance, and operation of any park, playground,	3310
playfield, indoor recreational facility, zoo, zoological park,	3311
bath, swimming pool, pond, water park, wading pool, wave pool,	3312
water slide, and other type of aquatic facility, or golf course;	3313

(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;

(w) A function that the general assembly mandates a political subdivision to perform.

(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.

(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(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

section 505.375 of the Revised Code, joint interstate emergency 3346
planning district established by an agreement entered into under 3347
that section, county solid waste management district and joint 3348
solid waste management district established under section 343.01 3349
or 343.012 of the Revised Code, and community school established 3350
under Chapter 3314. of the Revised Code. 3351

(G)(1) "Proprietary function" means a function of a political 3352
subdivision that is specified in division (G)(2) of this section 3353
or that satisfies both of the following: 3354

(a) The function is not one described in division (C)(1)(a) 3355
or (b) of this section and is not one specified in division (C)(2) 3356
of this section; 3357

(b) The function is one that promotes or preserves the public 3358
peace, health, safety, or welfare and that involves activities 3359
that are customarily engaged in by nongovernmental persons. 3360
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(2) A "proprietary function" includes, but is not limited to, 3362
the following: 3363

(a) The operation of a hospital by one or more political 3364
subdivisions; 3365

(b) The design, construction, reconstruction, renovation, 3366
repair, maintenance, and operation of a public cemetery other than 3367
a township cemetery; 3368

(c) The establishment, maintenance, and operation of a 3369
utility, including, but not limited to, a light, gas, power, or 3370
heat plant, a railroad, a busline or other transit company, an 3371
airport, and a municipal corporation water supply system; 3372

(d) The maintenance, destruction, operation, and upkeep of a 3373
sewer system; 3374

(e) The operation and control of a public stadium, 3375

auditorium, civic or social center, exhibition hall, arts and 3376
crafts center, band or orchestra, or off-street parking facility. 3377

(H) ~~"Public roads" means public roads, highways, streets,~~ 3378
~~avenues, alleys, and bridges within a political subdivision.~~ 3379
~~"Public roads" does not include berms, shoulders, rights-of-way,~~ 3380
~~or traffic control devices unless the traffic control devices are~~ 3381
~~mandated by the Ohio manual of uniform traffic control devices.~~ 3382

(I) "State" means the state of Ohio, including, but not 3383
limited to, the general assembly, the supreme court, the offices 3384
of all elected state officers, and all departments, boards, 3385
offices, commissions, agencies, colleges and universities, 3386
institutions, and other instrumentalities of the state of Ohio. 3387
"State" does not include political subdivisions. 3388

Sec. 2744.02. (A)(1) For the purposes of this chapter, the 3389
functions of political subdivisions are hereby classified as 3390
governmental functions and proprietary functions. Except as 3391
provided in division (B) of this section, a political subdivision 3392
is not liable in damages in a civil action for injury, death, or 3393
loss to person or property allegedly caused by any act or omission 3394
of the political subdivision or an employee of the political 3395
subdivision in connection with a governmental or proprietary 3396
function. 3397

(2) Subject to statutory limitations upon their monetary 3398
jurisdiction, the courts of common pleas, the municipal courts, 3399
and the county courts have jurisdiction to hear and determine 3400
civil actions governed by or brought pursuant to this chapter. 3401

(B) Subject to sections 2744.03 and 2744.05 of the Revised 3402
Code, a political subdivision is liable in damages in a civil 3403
action for injury, death, or loss to person or property allegedly 3404
caused by an act or omission of the political subdivision or of 3405
any of its employees in connection with a governmental or 3406

proprietary function, as follows:

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

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

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

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

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

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(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.~~ 3470

~~(C) An order that denies a political subdivision or an 3471
employee of a political subdivision the benefit of an alleged 3472
immunity from liability as provided in Chapter 2744. or any other 3473
provision of the law is a final order. 3474~~

Sec. 2744.03. (A) In a civil action brought against a 3475
political subdivision or an employee of a political subdivision to 3476
recover damages for injury, death, or loss to persons or property 3477
allegedly caused by any act or omission in connection with a 3478
governmental or proprietary function, the following defenses or 3479
immunities may be asserted to establish nonliability: 3480

(1) The political subdivision is immune from liability if the 3481
employee involved was engaged in the performance of a judicial, 3482
quasi-judicial, prosecutorial, legislative, or quasi-legislative 3483
function. 3484

(2) The political subdivision is immune from liability if the 3485
conduct of the employee involved, other than negligent conduct, 3486
that gave rise to the claim of liability was required by law or 3487
authorized by law, or if the conduct of the employee involved that 3488
gave rise to the claim of liability was necessary or essential to 3489
the exercise of powers of the political subdivision or employee. 3490

(3) The political subdivision is immune from liability if the 3492
action or failure to act by the employee involved that gave rise 3493
to the claim of liability was within the discretion of the 3494
employee with respect to policy-making, planning, or enforcement 3495
powers by virtue of the duties and responsibilities of the office 3496
or position of the employee. 3497

(4) The political subdivision is immune from liability if the 3498
action or failure to act by the political subdivision or employee 3499
involved that gave rise to the claim of liability resulted in 3500

injury or death to a person who had been convicted of or pleaded 3501
guilty to a criminal offense and who, at the time of the injury or 3502
death, was serving any portion of the person's sentence by 3503
performing community service work for or in the political 3504
subdivision whether pursuant to section 2951.02 of the Revised 3505
Code or otherwise, or resulted in injury or death to a child who 3506
was found to be a delinquent child and who, at the time of the 3507
injury or death, was performing community service or community 3508
work for or in a political subdivision in accordance with the 3509
order of a juvenile court entered pursuant to section 2151.355 of 3510
the Revised Code, and if, at the time of the person's or child's 3511
injury or death, the person or child was covered for purposes of 3512
Chapter 4123. of the Revised Code in connection with the community 3513
service or community work for or in the political subdivision. 3514

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(5) The political subdivision is immune from liability if the 3516
injury, death, or loss to persons or property resulted from the 3517
exercise of judgment or discretion in determining whether to 3518
acquire, or how to use, equipment, supplies, materials, personnel, 3519
facilities, and other resources unless the judgment or discretion 3520
was exercised with malicious purpose, in bad faith, or in a wanton 3521
or reckless manner. 3522

(6) In addition to any immunity or defense referred to in 3523
division (A)(7) of this section and in circumstances not covered 3524
by that division or sections 3314.07 and 3746.24 of the Revised 3525
Code, the employee is immune from liability unless one of the 3526
following applies: 3527

(a) The employee's acts or omissions were manifestly outside 3528
the scope of the employee's employment or official 3529
responsibilities; 3530

(b) The employee's acts or omissions were with malicious 3531
purpose, in bad faith, or in a wanton or reckless manner; 3532

(c) Liability is expressly imposed upon the employee by a 3533
section of the Revised Code. ~~Liability shall not be construed to~~ 3534
~~exist under another section of the Revised Code merely because~~ 3535
~~that section imposes a responsibility or mandatory duty upon an~~ 3536
~~employee, because of a general authorization in that section that~~ 3537
~~an employee may sue and be sued, or because the section uses the~~ 3538
~~term "shall" in a provision pertaining to an employee.~~ 3539

(7) The political subdivision, and an employee who is a 3540
county prosecuting attorney, city director of law, village 3541
solicitor, or similar chief legal officer of a political 3542
subdivision, an assistant of any such person, or a judge of a 3543
court of this state is entitled to any defense or immunity 3544
available at common law or established by the Revised Code. 3545

(B) Any immunity or defense conferred upon, or referred to in 3546
connection with, an employee by division (A)(6) or (7) of this 3547
section does not affect or limit any liability of a political 3548
subdivision for an act or omission of the employee as provided in 3549
section 2744.02 of the Revised Code. 3550

Sec. 2744.04. (A) An action against a political subdivision 3551
to recover damages for injury, death, or loss to persons or 3552
property allegedly caused by any act or omission in connection 3553
with a governmental or proprietary function, whether brought as an 3554
original action, cross-claim, counterclaim, third-party claim, or 3555
claim for subrogation, shall be brought within two years after the 3556
cause of action arose, or within any applicable shorter period of 3557
time for bringing the action provided by the Revised Code. This 3558
division applies to actions brought against political subdivisions 3559
by all persons, governmental entities, and the state. 3560

(B) In the complaint filed in a civil action against a 3561
political subdivision or an employee of a political subdivision to 3562
recover damages for injury, death, or loss to persons or property 3563

allegedly caused by an act or omission in connection with a 3564
governmental or proprietary function, whether filed in an original 3565
action, cross-claim, counterclaim, third-party claim, or claim for 3566
subrogation, the complainant shall include a demand for a judgment 3567
for the damages that the judge in a nonjury trial or the jury in a 3568
jury trial finds that the complainant is entitled to be awarded, 3569
but shall not specify in that demand any monetary amount for 3570
damages sought. 3571

Sec. 2744.05. Notwithstanding any other provisions of the 3572
Revised Code or rules of a court to the contrary, in an action 3573
against a political subdivision to recover damages for injury, 3574
death, or loss to person or property caused by an act or omission 3575
in connection with a governmental or proprietary function: 3576

(A) Punitive or exemplary damages shall not be awarded. 3577

(B)~~(1)~~ If a claimant receives or is entitled to receive 3578
benefits for injuries or loss allegedly incurred from a policy or 3579
policies of insurance or any other source, the benefits shall be 3580
disclosed to the court, and the amount of the benefits shall be 3581
deducted from any award against a political subdivision recovered 3582
by that claimant. No insurer or other person is entitled to bring 3583
an action under a subrogation provision in an insurance or other 3584
contract against a political subdivision with respect to those 3585
benefits. ~~The amount of the benefits shall be deducted from an~~ 3586
~~award against a political subdivision under division (B)(1) of~~ 3587
~~this section regardless of whether the claimant may be under an~~ 3588
~~obligation to pay back the benefits upon recovery, in whole or in~~ 3589
~~part, for the claim. A claimant whose benefits have been deducted~~ 3590
~~from an award under division (B)(1) of this section is not~~ 3591
~~considered fully compensated and shall not be required to~~ 3592
~~reimburse a subrogated claim for benefits deducted from an award~~ 3593
~~pursuant to division (B)(1) of this section.~~ 3594

~~(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 3626
rehabilitation services, or for other care, treatment, services, 3627
products, or accommodations that were necessary because of the 3628
injury; 3629

(c) All expenditures to be incurred in the future, as 3630
determined by the court, by the person injured or another person 3631
on behalf of the person injured for medical care or treatment, for 3632
rehabilitation services, or for other care, treatment, services, 3633
products, or accommodations that will be necessary because of the 3634
injury; 3635

(d) All expenditures of a person whose property was injured 3636
or destroyed or of another person on behalf of the person whose 3637
property was injured or destroyed in order to repair or replace 3638
the property that was injured or destroyed; 3639

(e) All expenditures of the person injured or of the person 3640
whose property was injured or destroyed or of another person on 3641
behalf of the person injured or of the person whose property was 3642
injured or destroyed in relation to the actual preparation or 3643
presentation of the claim involved; 3644

(f) Any other expenditures of the person injured or of the 3645
person whose property was injured or destroyed or of another 3646
person on behalf of the person injured or of the person whose 3647
property was injured or destroyed that the court determines 3648
represent an actual loss experienced because of the personal or 3649
property injury or property loss. 3650

"The actual loss of the person who is awarded the damages" 3651
does not include any fees paid or owed to an attorney for any 3652
services rendered in relation to a personal or property injury or 3653
property loss, and does not include any damages awarded for pain 3654
and suffering, for the loss of society, consortium, companionship, 3655
care, assistance, attention, protection, advice, guidance, 3656

counsel, instruction, training, or education of the person 3657
injured, for mental anguish, or for any other intangible loss. 3658

Sec. 2744.06. (A) Real or personal property, and moneys, 3659
accounts, deposits, or investments of a political subdivision are 3660
not subject to execution, judicial sale, garnishment, or 3661
attachment to satisfy a judgment rendered against a political 3662
subdivision in a civil action to recover damages for injury, 3663
death, or loss to ~~persons~~ person or property caused by an act or 3664
omission of the political subdivision or any of its employees in 3665
connection with a governmental or proprietary function. Such 3666
judgments shall be paid from funds of the political subdivisions 3667
that have been appropriated for that purpose, but, if sufficient 3668
funds are not currently appropriated for the payment of judgments, 3669
the fiscal officer of a political subdivision shall certify the 3670
amount of any unpaid judgments to the taxing authority of the 3671
political subdivision for inclusion in the next succeeding budget 3672
and annual appropriation measure and payment in the next 3673
succeeding fiscal year as provided by section 5705.08 of the 3674
Revised Code, unless any such judgment is to be paid from the 3675
proceeds of bonds issued pursuant to section 133.14 of the Revised 3676
Code or pursuant to annual installments authorized by division (B) 3677
or (C) of this section. 3678

(B)(1)(a) As used in this division, "the actual loss of the 3679
person who is awarded the damages" includes all of the following: 3680

(i) All wages, salaries, or other compensation lost by the 3681
person injured as a result of the injury, as of the date of the 3682
judgment; 3683

(ii) All expenditures of the person injured or of another 3684
person on ~~his~~ of the person injured for medical care or 3685
treatment, for rehabilitation services, or for other care, 3686
treatment, services, products, or accommodations that were 3687

necessary because of the injury;	3688
(iii) All expenditures of a person whose property was injured	3689
or destroyed or of another person on his behalf <u>of the person</u>	3690
<u>whose property was injured or destroyed</u> in order to repair or	3691
replace the property that was injured or destroyed;	3692
(iv) All expenditures of the person injured or whose property	3693
was injured or destroyed or of another person on his behalf <u>of the</u>	3694
<u>person injured or whose property was injured or destroyed</u> in	3695
relation to the actual preparation or presentation of the person's	3696
claim;	3697
(v) Any other expenditures of the person injured or of the	3698
person whose property was injured or destroyed or of another	3699
person on his behalf <u>of the person injured or whose property was</u>	3700
<u>injured or destroyed</u> that the court determines represent an actual	3701
loss experienced because of the personal or property injury or	3702
property loss.	3703
(b) As used in this division, "the actual loss of the person	3704
who is awarded the damages" does not include any of the following:	3705
(i) Wages, salaries, or other compensation lost by the person	3706
injured as a result of the injury, that are future expected	3707
earnings of such a person;	3708
(ii) Expenditures to be incurred in the future, as determined	3709
by the court, by the person injured or by another person on his	3710
behalf <u>of the person injured</u> for medical care or treatment, for	3711
rehabilitation services, or for other care, treatment, services,	3712
products, or accommodations that will be necessary because of the	3713
injury;	3714
(iii) Any fees paid or owed to an attorney for any services	3715
rendered in relation to a personal or property injury or property	3716
loss;	3717
(iv) Any damages awarded for pain and suffering, for the loss	3718

of society, consortium, companionship, care, assistance, 3719
attention, protection, advice, guidance, counsel, instruction, 3720
training, or education of the person injured, for mental anguish, 3721
or for any other intangible loss. 3722

(2) Except as specifically provided to the contrary in this 3723
division, a court that renders a judgment against a political 3724
subdivision as described in division (A) of this section and that 3725
is not in favor of the state may authorize the political 3726
subdivision, upon the motion of the political subdivision, to pay 3727
the judgment or a specified portion of the judgment in annual 3728
installments over a period not to exceed ten years, subject to the 3729
payment of interest at the rate specified in section 1343.03 of 3730
the Revised Code. A court shall not authorize the payment in 3731
installments under this division of any portion of a judgment or 3732
entire judgment that represents the actual loss of the person who 3733
is awarded the damages. 3734

Additionally, a court shall not authorize the payment in 3735
installments under this division of any portion of a judgment or 3736
entire judgment that does not represent the actual loss of the 3737
person who is awarded the damages unless the court, after 3738
balancing the interests of the political subdivision and of the 3739
person in whose favor the judgment was rendered, determines that 3740
installment payments would be appropriate under the circumstances 3741
and would not be unjust to the person in whose favor the judgment 3742
was rendered. If a court makes such a determination, it shall fix 3743
the amount of the installment payments in such a manner as to 3744
achieve for the person in whose favor the judgment was rendered, 3745
the same economic result over the period as ~~he~~ that person would 3746
have received if the judgment or portion of the judgment subject 3747
to the installment payments had been paid in a lump sum payment. 3748

(C) At the option of a political subdivision, a judgment as 3749
described in division (A) of this section and that is rendered in 3750

favor of the state may be paid in equal annual installments over a 3751
period not to exceed ten years, without the payment of interest. 3752

Sec. 3123.17. (A) When a court issues or modifies a court 3753
support order, the court shall determine the following: 3754

(1) Whether the obligor is in default under a prior court 3755
support order or the court support order being modified; 3756

(2) If the obligor is in default, the date the court support 3757
order went into default and the amount of support arrearages owed 3758
pursuant to the default. 3759

If the court determines the obligor is in default under a 3760
support order, the court shall issue a new order requiring the 3761
obligor to pay support. If the court determines the default was 3762
willful, the court shall assess interest on the arrearage amount 3763
from the date the court specifies as the date of default to the 3764
date the court issues the new order requiring the payment of 3765
support and shall compute the interest at the rate specified in 3766
~~division (A) of~~ section 1343.03 of the Revised Code. The court 3767
shall specify in the support order the amount of interest the 3768
court assessed against the obligor and incorporate the amount of 3769
interest into the new monthly payment plan. 3770

(B) When a court issues or modifies a court support order, 3771
the court may include in the support order a statement ordering 3772
either party to pay the costs of the action, including, but not 3773
limited to, attorney's fees, fees for genetic tests in contested 3774
actions under sections 3111.01 to 3111.18 of the Revised Code, and 3775
court costs. 3776

Sec. 3722.08. (A) If the director of health determines that 3777
an adult care facility is in violation of this chapter or rules 3778
adopted under it, ~~he~~ the director may impose a civil penalty, 3779
pursuant to rules adopted by the public health council under this 3780

chapter, on the owner of the facility. The director shall 3781
determine the classification and amount of the penalty by 3782
considering the following factors: 3783

(1) The gravity of the violation, the severity of the actual 3784
or potential harm, and the extent to which the provisions of this 3785
chapter or rules adopted under it were violated; 3786

(2) Actions taken by the owner or manager to correct the 3787
violation; 3788

(3) The number, if any, of previous violations by the adult 3789
care facility. 3790

(B) The director shall give written notice of the order 3791
imposing a civil penalty to the adult care facility by certified 3792
mail, return receipt requested, or shall provide for delivery of 3793
the notice in person. The notice shall specify the classification 3794
of the violation as determined by rules adopted by the public 3795
health council pursuant to this chapter, the amount of the penalty 3796
and the rate of interest, the action that is required to be taken 3797
to correct the violation, the time within which it is to be 3798
corrected as specified in division (C) of this section, and the 3799
procedures for the facility to follow to request a conference on 3800
the order imposing a civil penalty. If the facility requests a 3801
conference in a letter mailed or delivered not later than two 3802
working days after it has received the notice, the director shall 3803
hold a conference with representatives of the facility concerning 3804
the civil penalty. The conference shall be held not later than 3805
seven days after the director receives the request. The conference 3806
shall be conducted as prescribed in division (C) of section 3807
3722.07 of the Revised Code. If the director issues an order 3808
upholding the civil penalty, the facility may request an 3809
adjudication hearing pursuant to Chapter 119. of the Revised Code, 3810
but the order of the director shall be in effect during 3811

proceedings instituted pursuant to that chapter until a final 3812
adjudication is made. 3813

(C) The director shall order that the condition or practice 3814
constituting a class I violation be abated or eliminated within 3815
twenty-four hours or any longer period ~~he~~ that the director 3816
considers reasonable. The notice for a class II or a class III 3817
violation shall specify a time within which the violation is 3818
required to be corrected. 3819

(D) If the facility does not request a conference or if, 3820
after a conference, it fails to take action to correct a 3821
violation, the director shall issue an order upholding the 3822
penalty, plus interest at the rate specified in section 1343.03 of 3823
the Revised Code for each day beyond the date set for payment of 3824
the penalty. The director may waive the interest payment for the 3825
period prior to the conference if ~~he~~ the director concludes that 3826
the conference was necessitated by a legitimate dispute. 3827

(E) The director may cancel or reduce the penalty for a class 3828
I violation if the facility corrects the violation within the time 3829
specified in the notice unless a resident suffers physical harm 3830
because of the violation or unless the facility has been cited 3831
previously for the same violation, in which case the director 3832
shall impose the penalty even though the facility has corrected 3833
the violation. The director shall cancel the penalty for a class 3834
II or class III violation if the facility corrects the violation 3835
within the time specified in the notice unless the facility has 3836
been cited previously for the same violation. Each day of a 3837
violation of any class, after the date the director sets for 3838
abatement or elimination, constitutes a separate and additional 3839
violation. 3840

(F) If an adult care facility fails to pay a penalty imposed 3841
under this section, the director may commence a civil action to 3842
collect the penalty. The license of an adult care facility that 3843

has failed to pay a penalty imposed under this section shall not 3844
be renewed until the penalty has been paid. 3845

(G) If a penalty is imposed under this section, a fine shall 3846
not be imposed under section 3722.99 of the Revised Code for the 3847
same violation. 3848

(H) Notwithstanding any other division of this section, the 3849
director shall not impose a penalty for a class I violation if all 3850
of the following apply: 3851

(1) A resident has not suffered physical harm because of the 3852
violation; 3853

(2) The violation has been corrected and is no longer 3854
occurring; 3855

(3) The violation is discovered by an inspector authorized to 3856
inspect an adult care facility pursuant to this chapter by ~~his~~ an 3857
examination of the records of the facility. 3858

Sec. 4112.02. It shall be an unlawful discriminatory 3859
practice: 3860

(A) For any employer, because of the race, color, religion, 3861
sex, national origin, disability, age, or ancestry of any person, 3862
to discharge without just cause, to refuse to hire, or otherwise 3863
to discriminate against that person with respect to hire, tenure, 3864
terms, conditions, or privileges of employment, or any matter 3865
directly or indirectly related to employment. 3866

(B) For an employment agency or personnel placement service, 3867
because of race, color, religion, sex, national origin, 3868
disability, age, or ancestry, to do any of the following: 3869

(1) Refuse or fail to accept, register, classify properly, or 3870
refer for employment, or otherwise discriminate against any 3871
person; 3872

(2) Comply with a request from an employer for referral of 3873
applicants for employment if the request directly or indirectly 3874
indicates that the employer fails to comply with the provisions of 3875
sections 4112.01 to 4112.07 of the Revised Code. 3876

(C) For any labor organization to do any of the following: 3877

(1) Limit or classify its membership on the basis of race, 3878
color, religion, sex, national origin, disability, age, or 3879
ancestry; 3880

(2) Discriminate against, limit the employment opportunities 3881
of, or otherwise adversely affect the employment status, wages, 3882
hours, or employment conditions of any person as an employee 3883
because of race, color, religion, sex, national origin, 3884
disability, age, or ancestry. 3885

(D) For any employer, labor organization, or joint 3886
labor-management committee controlling apprentice training 3887
programs to discriminate against any person because of race, 3888
color, religion, sex, national origin, disability, or ancestry in 3889
admission to, or employment in, any program established to provide 3890
apprentice training. 3891

(E) Except where based on a bona fide occupational 3892
qualification certified in advance by the commission, for any 3893
employer, employment agency, personnel placement service, or labor 3894
organization, prior to employment or admission to membership, to 3895
do any of the following: 3896

(1) Elicit or attempt to elicit any information concerning 3897
the race, color, religion, sex, national origin, disability, age, 3898
or ancestry of an applicant for employment or membership; 3899

(2) Make or keep a record of the race, color, religion, sex, 3900
national origin, disability, age, or ancestry of any applicant for 3901
employment or membership; 3902

(3) Use any form of application for employment, or personnel 3903
or membership blank, seeking to elicit information regarding race, 3904
color, religion, sex, national origin, disability, age, or 3905
ancestry; but an employer holding a contract containing a 3906
nondiscrimination clause with the government of the United States, 3907
or any department or agency of that government, may require an 3908
employee or applicant for employment to furnish documentary proof 3909
of United States citizenship and may retain that proof in the 3910
employer's personnel records and may use photographic or 3911
fingerprint identification for security purposes; 3912

(4) Print or publish or cause to be printed or published any 3913
notice or advertisement relating to employment or membership 3914
indicating any preference, limitation, specification, or 3915
discrimination, based upon race, color, religion, sex, national 3916
origin, disability, age, or ancestry; 3917

(5) Announce or follow a policy of denying or limiting, 3918
through a quota system or otherwise, employment or membership 3919
opportunities of any group because of the race, color, religion, 3920
sex, national origin, disability, age, or ancestry of that group; 3921

(6) Utilize in the recruitment or hiring of persons any 3922
employment agency, personnel placement service, training school or 3923
center, labor organization, or any other employee-referring source 3924
known to discriminate against persons because of their race, 3925
color, religion, sex, national origin, disability, age, or 3926
ancestry. 3927

(F) For any person seeking employment to publish or cause to 3928
be published any advertisement that specifies or in any manner 3929
indicates that person's race, color, religion, sex, national 3930
origin, disability, age, or ancestry, or expresses a limitation or 3931
preference as to the race, color, religion, sex, national origin, 3932
disability, age, or ancestry of any prospective employer. 3933

(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 3966
conditions of selling, transferring, assigning, renting, leasing, 3967
or subleasing any housing accommodations or in furnishing 3968
facilities, services, or privileges in connection with the 3969
ownership, occupancy, or use of any housing accommodations, 3970
including the sale of fire, extended coverage, or homeowners 3971
insurance, because of race, color, religion, sex, familial status, 3972
ancestry, disability, or national origin or because of the racial 3973
composition of the neighborhood in which the housing 3974
accommodations are located; 3975

(5) Discriminate against any person in the terms or 3976
conditions of any loan of money, whether or not secured by 3977
mortgage or otherwise, for the acquisition, construction, 3978
rehabilitation, repair, or maintenance of housing accommodations 3979
because of race, color, religion, sex, familial status, ancestry, 3980
disability, or national origin or because of the racial 3981
composition of the neighborhood in which the housing 3982
accommodations are located; 3983

(6) Refuse to consider without prejudice the combined income 3984
of both husband and wife for the purpose of extending mortgage 3985
credit to a married couple or either member of a married couple; 3986

(7) Print, publish, or circulate any statement or 3987
advertisement, or make or cause to be made any statement or 3988
advertisement, relating to the sale, transfer, assignment, rental, 3989
lease, sublease, or acquisition of any housing accommodations, or 3990
relating to the loan of money, whether or not secured by mortgage 3991
or otherwise, for the acquisition, construction, rehabilitation, 3992
repair, or maintenance of housing accommodations, that indicates 3993
any preference, limitation, specification, or discrimination based 3994
upon race, color, religion, sex, familial status, ancestry, 3995
disability, or national origin, or an intention to make any such 3996
preference, limitation, specification, or discrimination; 3997

(8) Except as otherwise provided in division (H)(8) or (17) 3998
of this section, make any inquiry, elicit any information, make or 3999
keep any record, or use any form of application containing 4000
questions or entries concerning race, color, religion, sex, 4001
familial status, ancestry, disability, or national origin in 4002
connection with the sale or lease of any housing accommodations or 4003
the loan of any money, whether or not secured by mortgage or 4004
otherwise, for the acquisition, construction, rehabilitation, 4005
repair, or maintenance of housing accommodations. Any person may 4006
make inquiries, and make and keep records, concerning race, color, 4007
religion, sex, familial status, ancestry, disability, or national 4008
origin for the purpose of monitoring compliance with this chapter. 4009

(9) Include in any transfer, rental, or lease of housing 4010
accommodations any restrictive covenant, or honor or exercise, or 4011
attempt to honor or exercise, any restrictive covenant; 4012

(10) Induce or solicit, or attempt to induce or solicit, a 4013
housing accommodations listing, sale, or transaction by 4014
representing that a change has occurred or may occur with respect 4015
to the racial, religious, sexual, familial status, or ethnic 4016
composition of the block, neighborhood, or other area in which the 4017
housing accommodations are located, or induce or solicit, or 4018
attempt to induce or solicit, a housing accommodations listing, 4019
sale, or transaction by representing that the presence or 4020
anticipated presence of persons of any race, color, religion, sex, 4021
familial status, ancestry, disability, or national origin, in the 4022
block, neighborhood, or other area will or may have results 4023
including, but not limited to, the following: 4024

(a) The lowering of property values; 4025

(b) A change in the racial, religious, sexual, familial 4026
status, or ethnic composition of the block, neighborhood, or other 4027
area; 4028

(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;	4029 4030
(d) A decline in the quality of the schools serving the block, neighborhood, or other area.	4031 4032
(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;	4033 4034 4035 4036 4037 4038 4039 4040
(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;	4041 4042 4043 4044 4045
(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;	4046 4047 4048 4049 4050
(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;	4051 4052 4053 4054 4055
(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:	4056 4057 4058
(a) The buyer or renter;	4059

(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;	4090
(c) An inquiry to determine whether an applicant is qualified	4091
for a priority available to persons with disabilities or persons	4092
with a particular type of disability;	4093
(d) An inquiry to determine whether an applicant currently	4094
uses a controlled substance in violation of section 2925.11 of the	4095
Revised Code or a substantively comparable municipal ordinance;	4096
(e) An inquiry to determine whether an applicant at any time	4097
has been convicted of or pleaded guilty to any offense, an element	4098
of which is the illegal sale, offer to sell, cultivation,	4099
manufacture, other production, shipment, transportation, delivery,	4100
or other distribution of a controlled substance.	4101
(18)(a) Refuse to permit, at the expense of a person with a	4102
disability, reasonable modifications of existing housing	4103
accommodations that are occupied or to be occupied by the person	4104
with a disability, if the modifications may be necessary to afford	4105
the person with a disability full enjoyment of the housing	4106
accommodations. This division does not preclude a landlord of	4107
housing accommodations that are rented or to be rented to a	4108
disabled tenant from conditioning permission for a proposed	4109
modification upon the disabled tenant's doing one or more of the	4110
following:	4111
(i) Providing a reasonable description of the proposed	4112
modification and reasonable assurances that the proposed	4113
modification will be made in a workerlike manner and that any	4114
required building permits will be obtained prior to the	4115
commencement of the proposed modification;	4116
(ii) Agreeing to restore at the end of the tenancy the	4117
interior of the housing accommodations to the condition they were	4118
in prior to the proposed modification, but subject to reasonable	4119
wear and tear during the period of occupancy, if it is reasonable	4120

for the landlord to condition permission for the proposed 4121
modification upon the agreement; 4122

(iii) Paying into an interest-bearing escrow account that is 4123
in the landlord's name, over a reasonable period of time, a 4124
reasonable amount of money not to exceed the projected costs at 4125
the end of the tenancy of the restoration of the interior of the 4126
housing accommodations to the condition they were in prior to the 4127
proposed modification, but subject to reasonable wear and tear 4128
during the period of occupancy, if the landlord finds the account 4129
reasonably necessary to ensure the availability of funds for the 4130
restoration work. The interest earned in connection with an escrow 4131
account described in this division shall accrue to the benefit of 4132
the disabled tenant who makes payments into the account. 4133

4134

(b) A landlord shall not condition permission for a proposed 4135
modification upon a disabled tenant's payment of a security 4136
deposit that exceeds the customarily required security deposit of 4137
all tenants of the particular housing accommodations. 4138

(19) Refuse to make reasonable accommodations in rules, 4139
policies, practices, or services when necessary to afford a person 4140
with a disability equal opportunity to use and enjoy a dwelling 4141
unit, including associated public and common use areas; 4142

(20) Fail to comply with the standards and rules adopted 4143
under division (A) of section 3781.111 of the Revised Code; 4144

(21) Discriminate against any person in the selling, 4145
brokering, or appraising of real property because of race, color, 4146
religion, sex, familial status, ancestry, disability, or national 4147
origin; 4148

(22) Fail to design and construct covered multifamily 4149
dwellings for first occupancy on or after June 30, 1992, in 4150
accordance with the following conditions: 4151

(a) The dwellings shall have at least one building entrance 4152
on an accessible route, unless it is impractical to do so because 4153
of the terrain or unusual characteristics of the site. 4154

(b) With respect to dwellings that have a building entrance 4155
on an accessible route, all of the following apply: 4156

(i) The public use areas and common use areas of the 4157
dwellings shall be readily accessible to and usable by persons 4158
with a disability. 4159

(ii) All the doors designed to allow passage into and within 4160
all premises shall be sufficiently wide to allow passage by 4161
persons with a disability who are in wheelchairs. 4162

(iii) All premises within covered multifamily dwelling units 4163
shall contain an accessible route into and through the dwelling; 4164
all light switches, electrical outlets, thermostats, and other 4165
environmental controls within such units shall be in accessible 4166
locations; the bathroom walls within such units shall contain 4167
reinforcements to allow later installation of grab bars; and the 4168
kitchens and bathrooms within such units shall be designed and 4169
constructed in a manner that enables an individual in a wheelchair 4170
to maneuver about such rooms. 4171

For purposes of division (H)(22) of this section, "covered 4172
multifamily dwellings" means buildings consisting of four or more 4173
units if such buildings have one or more elevators and ground 4174
floor units in other buildings consisting of four or more units. 4175

(I) For any person to discriminate in any manner against any 4176
other person because that person has opposed any unlawful 4177
discriminatory practice defined in this section or because that 4178
person has made a charge, testified, assisted, or participated in 4179
any manner in any investigation, proceeding, or hearing under 4180
sections 4112.01 to 4112.07 of the Revised Code. 4181

(J) For any person to aid, abet, incite, compel, or coerce 4182

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 4215
housing accommodations. 4216

(4) Nothing in division (H) of this section requires that 4217
housing accommodations be made available to an individual whose 4218
tenancy would constitute a direct threat to the health or safety 4219
of other individuals or whose tenancy would result in substantial 4220
physical damage to the property of others. 4221

(5) Nothing in division (H) of this section pertaining to 4222
discrimination on the basis of familial status shall be construed 4223
to apply to any of the following: 4224

(a) Housing accommodations provided under any state or 4225
federal program that have been determined under the "Fair Housing 4226
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 4227
amended, to be specifically designed and operated to assist 4228
elderly persons; 4229

(b) Housing accommodations intended for and solely occupied 4230
by persons who are sixty-two years of age or older; 4231

(c) Housing accommodations intended and operated for 4232
occupancy by at least one person who is fifty-five years of age or 4233
older per unit, as determined under the "Fair Housing Amendments 4234
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 4235

(L) Nothing in divisions (A) to (E) of this section shall be 4236
construed to require a person with a disability to be employed or 4237
trained under circumstances that would significantly increase the 4238
occupational hazards affecting either the person with a 4239
disability, other employees, the general public, or the facilities 4240
in which the work is to be performed, or to require the employment 4241
or training of a person with a disability in a job that requires 4242
the person with a disability routinely to undertake any task, the 4243
performance of which is substantially and inherently impaired by 4244
the person's disability. 4245

(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.

(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.

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.

(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:

(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;

(2) Observe the terms of a bona fide seniority system or any 4278
bona fide employee benefit plan, including, but not limited to, a 4279
retirement, pension, or insurance plan, that is not a subterfuge 4280
to evade the purposes of this section. However, no such employee 4281
benefit plan shall excuse the failure to hire any individual, and 4282
no such seniority system or employee benefit plan shall require or 4283
permit the involuntary retirement of any individual, because of 4284
the individual's age except as provided for in the "Age 4285
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 4286
29 U.S.C.A. 623, as amended by the "Age Discrimination in 4287
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 4288
623, as amended. 4289

(3) Retire an employee who has attained sixty-five years of 4290
age who, for the two-year period immediately before retirement, is 4291
employed in a bona fide executive or a high policymaking position, 4292
if the employee is entitled to an immediate nonforfeitable annual 4293
retirement benefit from a pension, profit-sharing, savings, or 4294
deferred compensation plan, or any combination of those plans, of 4295
the employer of the employee, which equals, in the aggregate, at 4296
least forty-four thousand dollars, in accordance with the 4297
conditions of the "Age Discrimination in Employment Act Amendment 4298
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 4299
Discrimination in Employment Act Amendments of 1986," 100 Stat. 4300
3342, 29 U.S.C.A. 631, as amended; 4301

(4) Observe the terms of any bona fide apprenticeship program 4302
if the program is registered with the Ohio apprenticeship council 4303
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 4304
approved by the federal committee on apprenticeship of the United 4305
States department of labor. 4306

(P) Nothing in this chapter prohibiting age discrimination 4307
and nothing in division (A) of section 4112.14 of the Revised Code 4308
shall be construed to prohibit the following: 4309

(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 4341
an employee, applicant, or other person, if an employer, 4342
employment agency, personnel placement service, labor 4343
organization, or joint labor-management committee acts on the 4344
basis of that illegal use. 4345

(b) Division (Q)(1)(a) of this section does not apply to an 4346
employee, applicant, or other person who satisfies any of the 4347
following: 4348

(i) The employee, applicant, or other person has successfully 4349
completed a supervised drug rehabilitation program and no longer 4350
is engaging in the illegal use of any controlled substance, or the 4351
employee, applicant, or other person otherwise successfully has 4352
been rehabilitated and no longer is engaging in that illegal use. 4353
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(ii) The employee, applicant, or other person is 4355
participating in a supervised drug rehabilitation program and no 4356
longer is engaging in the illegal use of any controlled substance. 4357

(iii) The employee, applicant, or other person is erroneously 4358
regarded as engaging in the illegal use of any controlled 4359
substance, but the employee, applicant, or other person is not 4360
engaging in that illegal use. 4361

(2) Divisions (A) to (E) of this section do not prohibit an 4362
employer, employment agency, personnel placement service, labor 4363
organization, or joint labor-management committee from doing any 4364
of the following: 4365

(a) Adopting or administering reasonable policies or 4366
procedures, including, but not limited to, testing for the illegal 4367
use of any controlled substance, that are designed to ensure that 4368
an individual described in division (Q)(1)(b)(i) or (ii) of this 4369
section no longer is engaging in the illegal use of any controlled 4370
substance; 4371

(b) Prohibiting the illegal use of controlled substances and 4372
the use of alcohol at the workplace by all employees; 4373

(c) Requiring that employees not be under the influence of 4374
alcohol or not be engaged in the illegal use of any controlled 4375
substance at the workplace; 4376

(d) Requiring that employees behave in conformance with the 4377
requirements established under "The Drug-Free Workplace Act of 4378
1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 4379

(e) Holding an employee who engages in the illegal use of any 4380
controlled substance or who is an alcoholic to the same 4381
qualification standards for employment or job performance, and the 4382
same behavior, to which the employer, employment agency, personnel 4383
placement service, labor organization, or joint labor-management 4384
committee holds other employees, even if any unsatisfactory 4385
performance or behavior is related to an employee's illegal use of 4386
a controlled substance or alcoholism; 4387

(f) Exercising other authority recognized in the "Americans 4388
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 4389
as amended, including, but not limited to, requiring employees to 4390
comply with any applicable federal standards. 4391

(3) For purposes of this chapter, a test to determine the 4392
illegal use of any controlled substance does not include a medical 4393
examination. 4394

(4) Division (Q) of this section does not encourage, 4395
prohibit, or authorize, and shall not be construed as encouraging, 4396
prohibiting, or authorizing, the conduct of testing for the 4397
illegal use of any controlled substance by employees, applicants, 4398
or other persons, or the making of employment decisions based on 4399
the results of that type of testing. 4400

Sec. 4112.14. (A) No employer shall discriminate in any job 4401

opening against any applicant or discharge without just cause any 4402
employee aged forty or older who is physically able to perform the 4403
duties and otherwise meets the established requirements of the job 4404
and laws pertaining to the relationship between employer and 4405
employee. 4406

(B) Any person aged forty or older who is discriminated 4407
against in any job opening or discharged without just cause by an 4408
employer in violation of division (A) of this section may 4409
institute a civil action against the employer in a court of 4410
competent jurisdiction. If the court finds that an employer has 4411
discriminated on the basis of age, the court shall order an 4412
appropriate remedy which shall include reimbursement to ~~him~~ the 4413
applicant or employee for the costs, including reasonable ~~attorney~~ 4414
attorney's fees, of the action, or to reinstate the employee in 4415
~~his~~ the employee's former position with compensation for lost 4416
wages and any lost fringe benefits from the date of the illegal 4417
discharge and to reimburse ~~him~~ the employee for the costs, 4418
including reasonable ~~attorney~~ attorney's fees, of the action. The 4419
remedies available under this section are coexistent with remedies 4420
available pursuant to sections 4112.01 to 4112.11 of the Revised 4421
Code; except that any person instituting a civil action under this 4422
section is, with respect to the practices complained of, thereby 4423
barred from instituting a civil action under division (N) of 4424
section 4112.02 of the Revised Code or from filing a charge with 4425
the Ohio civil rights commission under section 4112.05 of the 4426
Revised Code. 4427

(C) The cause of action described in division (B) of this 4428
section and any remedies available pursuant to sections 4112.01 to 4429
4112.11 of the Revised Code shall not be available in the case of 4430
discharges where the employee has available to ~~him~~ the employee 4431
the opportunity to arbitrate the discharge or where a discharge 4432
has been arbitrated and has been found to be for just cause. 4433

Sec. 4112.99. Whoever violates this chapter is subject to a 4434
civil action for damages, injunctive relief, or any other 4435
appropriate relief. 4436

Sec. 4113.52. (A)(1)(a) If an employee becomes aware in the 4437
course of ~~his~~ the employee's employment of a violation of any 4438
state or federal statute or any ordinance or regulation of a 4439
political subdivision that ~~his~~ the employee's employer has 4440
authority to correct, and the employee reasonably believes that 4441
the violation either is a criminal offense that is likely to cause 4442
an imminent risk of physical harm to persons or a hazard to public 4443
health or safety or is a felony, the employee orally shall notify 4444
~~his~~ the employee's supervisor or other responsible officer of ~~his~~ 4445
the employee's employer of the violation and subsequently shall 4446
file with that supervisor or officer a written report that 4447
provides sufficient detail to identify and describe the violation. 4448
If the employer does not correct the violation or make a 4449
reasonable and good faith effort to correct the violation within 4450
twenty-four hours after the oral notification or the receipt of 4451
the report, whichever is earlier, the employee may file a written 4452
report that provides sufficient detail to identify and describe 4453
the violation with the prosecuting authority of the county or 4454
municipal corporation where the violation occurred, with a peace 4455
officer, with the inspector general if the violation is within ~~his~~ 4456
the inspector general's jurisdiction, or with any other 4457
appropriate public official or agency that has regulatory 4458
authority over the employer and the industry, trade, or business 4459
in which ~~he~~ the employer is engaged. 4460

(b) If an employee makes a report under division (A)(1)(a) of 4461
this section, the employer, within twenty-four hours after the 4462
oral notification was made or the report was received or by the 4463
close of business on the next regular business day following the 4464

day on which the oral notification was made or the report was
received, whichever is later, shall notify the employee, in
writing, of any effort of the employer to correct the alleged
violation or hazard or of the absence of the alleged violation or
hazard.

(2) If an employee becomes aware in the course of ~~his~~ the
employee's employment of a violation of chapter 3704., 3734.,
6109., Or 6111. Of the revised code that is a criminal offense,
the employee directly may notify, either orally or in writing, any
appropriate public official or agency that has regulatory
authority over the employer and the industry, trade, or business
in which ~~he~~ the employer is engaged.

(3) If an employee becomes aware in the course of ~~his~~ the
employee's employment of a violation by a fellow employee of any
state or federal statute, any ordinance or regulation of a
political subdivision, or any work rule or company policy of ~~his~~
the employee's employer and the employee reasonably believes that
the violation either is a criminal offense that is likely to cause
an imminent risk of physical harm to persons or a hazard to public
health or safety or is a felony, the employee orally shall notify
~~his~~ the employee's supervisor or other responsible officer of ~~his~~
the employee's employer of the violation and subsequently shall
file with that supervisor or officer a written report that
provides sufficient detail to identify and describe the violation.

(B) Except as otherwise provided in division (C) of this
section, no employer shall take any disciplinary or retaliatory
action against an employee for making any report authorized by
division (A)(1) or (2) of this section, 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 either such
division. No employer shall take any disciplinary or retaliatory
action against an employee for making any report authorized by

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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 4528
authority against the employee as a result of the employee's 4529
having filed a report under division (A) of section 124.341 of the 4530
Revised Code. 4531

(E) The court, in rendering a judgment for the employee in an 4532
action brought pursuant to division (D) of this section, may 4533
order, as it determines appropriate, reinstatement of the employee 4534
to the same position ~~he~~ that the employee held at the time of the 4535
disciplinary or retaliatory action and at the same site of 4536
employment or to a comparable position at that site, the payment 4537
of back wages, full reinstatement of fringe benefits and seniority 4538
rights, or any combination of these remedies. The court also may 4539
award the prevailing party all or a portion of the costs of 4540
litigation⁷ and, if the employee who brought the action prevails 4541
in the action, may award the prevailing employee reasonable 4542
attorney's fees, witness fees, and fees for experts who testify at 4543
trial, in an amount the court determines appropriate. If the court 4544
determines that an employer deliberately has violated division (B) 4545
of this section, the court, in making an award of back pay, may 4546
include interest at the rate specified in section 1343.03 of the 4547
Revised Code. 4548

(F) Any report filed with the inspector general under this 4549
section shall be filed as a complaint in accordance with section 4550
121.46 of the Revised Code. 4551

Sec. 4171.10. The express assumption of risk set forth in 4552
section 4171.09 of the Revised Code shall serve as a complete 4553
defense to a suit against an operator by a roller skater for 4554
injuries resulting from the assumed risks of roller skating. The 4555
comparative negligence provisions of section 2315.19 of the 4556
Revised Code shall not apply unless the operator has breached ~~his~~ 4557
the operator's duties pursuant to sections 4171.06 and 4171.07 of 4558

the Revised Code. 4559

Sec. 4399.18. Notwithstanding section 2307.60 of the Revised 4560
Code and except as otherwise provided in this section and in 4561
section 4399.01 of the Revised Code, no person, and no executor or 4562
administrator of the person, who suffers personal injury, death, 4563
or property damage as a result of the actions of an intoxicated 4564
person has a cause of action against any liquor permit holder or 4565
~~his~~ an employee of a liquor permit holder who sold beer or 4566
intoxicating liquor to the intoxicated person unless the injury, 4567
death, or property damage occurred on the permit holder's premises 4568
or in a parking lot under ~~his~~ the control of the permit holder and 4569
was proximately caused by the negligence of the permit holder or 4570
~~his employees~~ an employee of the permit holder. A person has a 4571
cause of action against a permit holder or ~~his~~ an employee of a 4572
permit holder for personal injury, death, or property damage 4573
caused by the negligent actions of an intoxicated person occurring 4574
off the premises or away from a parking lot under the permit 4575
holder's control only when both of the following can be shown by a 4576
preponderance of the evidence: 4577

(A) The permit holder or ~~his~~ an employee of the permit holder 4578
knowingly sold an intoxicating beverage to at least one of the 4579
following: 4580

(1) A noticeably intoxicated person in violation of division 4581
(B) of section 4301.22 of the Revised Code; 4582

(2) A person in violation of division (C) of section 4301.22 4583
of the Revised Code; 4584

(3) A person in violation of section 4301.69 of the Revised 4585
Code; 4586

(B) The person's intoxication proximately caused the personal 4587
injury, death, or property damage. 4588

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. 4620

(B) Any negligence, or willful or wanton misconduct, that is 4621
committed by a minor under eighteen years of age when driving a 4622
motor vehicle upon a highway shall be imputed to the person who 4623
has signed the application of the minor for a probationary 4624
license, restricted license, or temporary instruction permit, 4625
which person shall be jointly and severally liable with the minor 4626
for any damages caused by the negligence or the willful or wanton 4627
misconduct. This joint and several liability is not subject to 4628
division (D) of section 2315.19, ~~division (F) of section 2315.20,~~ 4629
~~or division (B) of section 2307.31~~ of the Revised Code with 4630
respect to a negligence ~~or other tort~~ claim that otherwise is 4631
subject to ~~any of those sections~~ that section. 4632

There shall be no imputed liability imposed under this 4633
division if a minor under eighteen years of age has proof of 4634
financial responsibility with respect to the operation of a motor 4635
vehicle owned by the minor or, if the minor is not the owner of a 4636
motor vehicle, with respect to the minor's operation of any motor 4637
vehicle, in the form and in the amounts required under Chapter 4638
4509. of the Revised Code. 4639

(C) Any person who has signed the application of a minor 4640
under eighteen years of age for a license or permit subsequently 4641
may surrender to the registrar the license or temporary 4642
instruction permit of the minor and request that the license or 4643
permit be canceled. The registrar then shall cancel the license or 4644
temporary instruction permit, and the person who signed the 4645
application of the minor shall be relieved from the liability 4646
imposed by division (B) of this section. 4647

(D) Any minor under eighteen years of age whose probationary 4648
license, restricted license, or temporary instruction permit is 4649
surrendered to the registrar by the person who signed the 4650
application for the license or permit and whose license or 4651

temporary instruction permit subsequently is canceled by the 4652
registrar may obtain a new license or temporary instruction permit 4653
without having to undergo the examinations otherwise required by 4654
sections 4507.11 and 4507.12 of the Revised Code and without 4655
having to tender the fee for that license or temporary instruction 4656
permit, if the minor is able to produce another parent, guardian, 4657
other person having custody of the minor, or other adult, and that 4658
adult is willing to assume the liability imposed under division 4659
(B) of this section. That adult shall comply with the procedures 4660
contained in division (A) of this section. 4661

Sec. 4513.263. (A) As used in this section and in section 4662
4513.99 of the Revised Code: 4663

(1) "Automobile" means any commercial tractor, passenger car, 4664
commercial car, or truck that is required to be factory-equipped 4665
with an occupant restraining device for the operator or any 4666
passenger by regulations adopted by the United States secretary of 4667
transportation pursuant to the "National Traffic and Motor Vehicle 4668
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 4669

(2) "Occupant restraining device" means a seat safety belt, 4670
shoulder belt, harness, or other safety device for restraining a 4671
person who is an operator of or passenger in an automobile and 4672
that satisfies the minimum federal vehicle safety standards 4673
established by the United States department of transportation. 4674
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(3) "Passenger" means any person in an automobile, other than 4676
its operator, who is occupying a seating position for which an 4677
occupant restraining device is provided. 4678

(4) "Commercial tractor," "passenger car," and "commercial 4679
car" have the same meanings as in section 4501.01 of the Revised 4680
Code. 4681

(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 4712
person who is required by section 4511.81 of the Revised Code to 4713
be secured in a child restraint device. Division (B)(1) of this 4714
section does not apply to a person who is an employee of the 4715
United States postal service or of a newspaper home delivery 4716
service, during any period in which the person is engaged in the 4717
operation of an automobile to deliver mail or newspapers to 4718
addressees. Divisions (B)(1) and (3) of this section do not apply 4719
to a person who has an affidavit signed by a physician licensed to 4720
practice in this state under Chapter 4731. of the Revised Code or 4721
a chiropractor licensed to practice in this state under Chapter 4722
4734. of the Revised Code that states that the person has a 4723
physical impairment that makes use of an occupant restraining 4724
device impossible or impractical. 4725

(D) Notwithstanding any provision of law to the contrary, no 4726
law enforcement officer shall cause an operator of an automobile 4727
being operated on any street or highway to stop the automobile for 4728
the sole purpose of determining whether a violation of division 4729
(B) of this section has been or is being committed or for the sole 4730
purpose of issuing a ticket, citation, or summons for a violation 4731
of that nature or causing the arrest of or commencing a 4732
prosecution of a person for a violation of that nature, and no law 4733
enforcement officer shall view the interior or visually inspect 4734
any automobile being operated on any street or highway for the 4735
sole purpose of determining whether a violation of that nature has 4736
been or is being committed. 4737

(E) All fines collected for violations of division (B) of 4738
this section, or for violations of any ordinance or resolution of 4739
a political subdivision that is substantively comparable to that 4740
division, shall be forwarded to the treasurer of state for deposit 4741
as follows: 4742

(1) Eight per cent shall be deposited into the seat belt 4743

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~~ 4775
~~tortious conduct or considered for any other relevant purpose if~~ 4776
~~the failure contributed to the harm alleged in the tort action and~~ 4777
~~may, shall not diminish pursuant to section 2315.19 or 2315.20 of~~ 4778
~~the Revised Code a recovery of compensatory for damages in a tort~~ 4779
~~any civil action involving the person arising from the ownership,~~ 4780
~~maintenance, or operation of an automobile;~~ shall not be used as a 4781
basis for a criminal prosecution of the person other than a 4782
prosecution for a violation of this section; and shall not be 4783
admissible as evidence in a any civil or criminal action involving 4784
the person other than a prosecution for a violation of this 4785
section. 4786

(2) If, at the time of an accident involving a passenger car 4787
equipped with occupant restraining devices, any occupant of the 4788
passenger car who sustained injury or death was not wearing an 4789
available occupant restraining device, was not wearing all of the 4790
available elements of such a device, or was not wearing such a 4791
device as properly adjusted, then, consistent with the Rules of 4792
Evidence, the fact that the occupant was not wearing the available 4793
occupant restraining device, was not wearing all of the available 4794
elements of such a device, or was not wearing such a device as 4795
properly adjusted is admissible in evidence in relation to any 4796
claim for relief in a tort action to the extent that the claim for 4797
relief satisfies all of the following: 4798

(a) It seeks to recover damages for injury or death to the 4799
occupant. 4800

(b) The defendant in question is the manufacturer, designer, 4801
distributor, or seller of the passenger car. 4802

(c) The claim for relief against the defendant in question is 4803
that the injury or death sustained by the occupant was enhanced or 4804
aggravated by some design defect in the passenger car or that the 4805
passenger car was not crashworthy. 4806

(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 4839
appointed by that political subdivision. If the electors of a 4840
participating political subdivision do not elect either the 4841
legislative body of the political subdivision or the official or 4842
officials who appoint the legislative body of the political 4843
subdivision, the participating political subdivision may not 4844
appoint any member of a board of directors of a port authority. 4845
When a port authority is created by a combination of political 4846
subdivisions, the number of directors comprising the board shall 4847
be determined by agreement between the political subdivisions, 4848
which number may be changed from time to time by amendment of the 4849
agreement. The appointing body may at any time remove a director 4850
appointed by it for misfeasance, nonfeasance, or malfeasance in 4851
office. 4852

A majority of the directors shall have been qualified 4853
electors of, or shall have had their businesses or places of 4854
employment in, one or more political subdivisions within the area 4855
of the jurisdiction of the port authority, for a period of at 4856
least three years next preceding their appointment. 4857

The directors of any port authority first appointed shall 4858
serve staggered terms. Thereafter each successor shall serve for a 4859
term of four years, except that any person appointed to fill a 4860
vacancy shall be appointed to only the unexpired term and any 4861
director is eligible for reappointment. 4862

The board of directors by rule may provide for the removal of 4863
a director who fails to attend three consecutive regular meetings 4864
of the board. If a director is so removed, a successor shall be 4865
appointed for the remaining term of the removed director in the 4866
same manner provided for the original appointment. 4867

The directors shall elect one of their membership as 4868
chairperson and another as vice-chairperson, and shall designate 4869
their terms of office, and shall appoint a secretary who need not 4870

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. 4903
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(2) A port authority shall not indemnify a director, officer, or employee under any of the following circumstances: 4909
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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; 4911
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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; 4914
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(c) For any portion of a judgment that represents punitive or exemplary damages; 4918
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(d) For any portion of a consent judgment or settlement that is unreasonable. 4920
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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. 4922
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(4) This section does not affect either of the following: 4931

(a) Any defense that would otherwise be available in an 4932

action alleging personal liability of a director, officer, or 4933
employee; 4934

(b) The operation of section 9.83 of the Revised Code. 4935

Sec. 4909.42. If the proceeding on an application filed with 4936
the public utilities commission under section 4909.18 of the 4937
Revised Code by any public utility requesting an increase on any 4938
rate, joint rate, toll, classification, charge, or rental or 4939
requesting a change in a regulation or practice affecting the same 4940
has not been concluded and an order entered pursuant to section 4941
4909.19 of the Revised Code at the expiration of two hundred 4942
seventy-five days from the date of filing the application, the 4943
proposed increase shall go into effect upon the filing of an 4944
undertaking by the public utility. The undertaking shall be filed 4945
with the commission and shall be payable to the state for the use 4946
and benefit of the customers affected by the proposed increase or 4947
change. 4948

The undertaking must be signed by two of the officers of the 4949
utility, under oath, and must contain a promise to refund any 4950
amounts collected by the utility over the rate, joint rate, toll, 4951
classification, charge, or rental, as determined in the final 4952
order of the commission. All refunds shall include interest at the 4953
rate stated in section 1343.03 of the Revised Code. The refund 4954
shall be in the form of a temporary reduction in rates following 4955
the final order of the commission, and shall be accomplished in 4956
such manner as shall be prescribed by the commission in its final 4957
order. The commission shall exercise continuing and exclusive 4958
jurisdiction over such refunds. 4959

If the public utilities commission has not entered a final 4960
order within five hundred forty-five days from the date of the 4961
filing of an application for an increase in rates under section 4962
4909.18 of the Revised Code, a public utility shall have no 4963

obligation to make a refund of amounts collected after the five
hundred forty-fifth day which exceed the amounts authorized by the
commission's final order.

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Nothing in this section shall be construed to mitigate any
duty of the commission to issue a final order under section
4909.19 of the Revised Code.

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Sec. 5111.81. (A) There is hereby established the pharmacy
and therapeutics committee of the department of job and family
services. The committee shall consist of eight members and shall
be appointed by the director of job and family services. The
membership of the committee shall include: two pharmacists
licensed under Chapter 4729. of the Revised Code; two doctors of
medicine and two doctors of osteopathy licensed under Chapter
4731. of the Revised Code; a registered nurse licensed under
Chapter 4723. of the Revised Code; and a pharmacologist who has a
doctoral degree. The committee shall elect one of its members as
chairperson.

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~~(B) In the absence of fraud or bad faith, neither the
pharmacy and therapeutics committee nor a current or former
member, agent, representative, employee, or independent contractor
of the committee shall be held liable in damages to a person as
the result of an act, omission, proceeding, conduct, or decision
relating to the official duties undertaken or performed pursuant
to this section or rules promulgated pursuant to section 111.15 or
Chapter 119. of the Revised Code. If a current or former member,
agent, representative, employee, or independent contractor of the
committee requests the state to defend the current or former
member, agent, representative, employee, or independent contractor
against a claim or in an action arising out of an act, omission,
proceeding, conduct, or decision relating to official duties
undertaken or performed, if the request is made in writing at a~~

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~~reasonable time before the trial of the claim or in the action, 4995
and if the person requesting the defense cooperates in good faith 4996
in the defense of the claim or action, the state shall provide and 4997
pay for the defense of the claim or action and shall pay any 4998
resulting judgment, compromise, or settlement. The state shall not 4999
pay that part of a claim or judgment that is for punitive or 5000
exemplary damages. 5001~~

Sec. 5591.36. The board of county commissioners shall erect 5002
and maintain, where not already done, one or more guardrails on 5003
each end of a county bridge, viaduct, or culvert more than five 5004
feet high and on each side of every approach to a county bridge, 5005
viaduct, or culvert, if the approach or embankment is more than 5006
six feet high. The board shall also protect, by suitable 5007
guardrails, all perpendicular wash banks more than eight feet in 5008
height, where such banks have an immediate connection with a 5009
public highway other than state highways, or are adjacent thereto 5010
in an unprotected condition. 5011

It shall be a sufficient compliance with this section, if the 5012
board causes to be erected and maintained a good stockproof hedge 5013
fence where a guardrail is required. Such guardrails or hedge 5014
fences shall be erected in a substantial manner, having sufficient 5015
strength to protect life and property, the expense thereof to be 5016
paid out of the county bridge fund. 5017

Sec. 5591.37. Failure to comply with section 5591.36 of the 5018
Revised Code shall render the county liable for all accidents or 5019
damages as a result of such failure. 5020

Section 2.02. That all the following are repealed: 5021

(A) Existing sections 1701.95, 1707.01, 1901.18, 2101.31, 5022
2305.25, 2305.251, 2305.37, 2307.24, 2307.27, 2307.30, 2307.60, 5023

2307.61, 2313.46, 2315.07, 2315.08, 2315.18, 2315.23, 2315.24, 5024
2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 2744.05, 3123.17, 5025
4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 of the Revised 5026
Code; 5027

(B) Sections 109.36, 163.17, 723.01, 1343.03, 1775.14, 5028
1901.041, 1901.17, 1901.181, 1901.20, 1905.032, 2117.06, 2125.01, 5029
2125.02, 2125.04, 2305.01, 2305.10, 2305.11, 2305.16, 2305.27, 5030
2305.35, 2305.38, 2307.32, 2307.33, 2307.331, 2307.71, 2307.72, 5031
2307.73, 2307.75, 2307.78, 2307.801, 2315.01, 2315.18, 2315.19, 5032
2315.20, 2315.21, 2317.62, 2323.51, 2501.02, 2744.04, 2744.06, 5033
3701.19, 3722.08, 4112.14, 4112.99, 4113.52, 4171.10, 4399.18, 5034
4909.42, 5591.36, and 5591.37 of the Revised Code, as they result 5035
from Section 1 of Am. Sub. H.B. 350 of the 121st General Assembly; 5036

(C) Sections 901.52, 2101.163, 2151.542, 2303.202, 2305.011, 5037
2305.012, 2305.113, 2305.252, 2305.381, 2305.382, 2307.42, 5038
2307.43, 2307.48, 2307.791, 2307.792, 2309.01, 2315.37, 2317.46, 5039
2323.54, and 2323.59 of the Revised Code; 5040

(D) Sections 1901.262 and 1907.262 of the Revised Code, as 5041
enacted by Section 1 of Am. Sub. H.B. 350; 5042

(E) Section 2305.131 of the Revised Code, both as it results 5043
from and as it existed prior to its repeal and re-enactment by 5044
Sections 1 and 2 of Am. Sub. H.B. 350; 5045

(F) New sections 2307.31 and 2307.80 of the Revised Code, as 5046
enacted by Section 1 of Am. Sub. H.B. 350; and 5047

(G) Section 2317.45 of the Revised Code. 5048

Section 2.03. That sections 2744.01 and 2744.03 of the 5049
Revised Code as scheduled to take effect on January 1, 2002, be 5050
amended to read as follows: 5051

Sec. 2744.01. As used in this chapter: 5052

(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 persons; and that is not specified in division (G)(2) of this section as a proprietary function. 5084
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(2) A "governmental function" includes, but is not limited to, the following: 5087
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(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection; 5089
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(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property; 5091
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(c) The provision of a system of public education; 5096

(d) The provision of a free public library system; 5097

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds; 5098
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(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions; 5101
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(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; 5103
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(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; 5107
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(i) The enforcement or nonperformance of any law; 5111

(j) The regulation of traffic, and the erection or 5112

nonerection of traffic signs, signals, or control devices;	5113
(k) The collection and disposal of solid wastes, as defined	5114
in section 3734.01 of the Revised Code, including, but not limited	5115
to, the operation of solid waste disposal facilities, as	5116
"facilities" is defined in that section, and the collection and	5117
management of hazardous waste generated by households. As used in	5118
division (C)(2)(k) of this section, "hazardous waste generated by	5119
households" means solid waste originally generated by individual	5120
households that is listed specifically as hazardous waste in or	5121
exhibits one or more characteristics of hazardous waste as defined	5122
by rules adopted under section 3734.12 of the Revised Code, but	5123
that is excluded from regulation as a hazardous waste by those	5124
rules.	5125
(l) The provision or nonprovision, planning or design,	5126
construction, or reconstruction of a public improvement,	5127
including, but not limited to, a sewer system;	5128
(m) The operation of a human services department or agency,	5129
including, but not limited to, the provision of assistance to aged	5130
and infirm persons and to persons who are indigent;	5131
(n) The operation of a health board, department, or agency,	5132
including, but not limited to, any statutorily required or	5133
permissive program for the provision of immunizations or other	5134
inoculations to all or some members of the public, provided that a	5135
"governmental function" does not include the supply, manufacture,	5136
distribution, or development of any drug or vaccine employed in	5137
any such immunization or inoculation program by any supplier,	5138
manufacturer, distributor, or developer of the drug or vaccine;	5139
(o) The operation of mental health facilities, mental	5140
retardation or developmental disabilities facilities, alcohol	5141
treatment and control centers, and children's homes or agencies;	5142
(p) The provision or nonprovision of inspection services of	5143

all types, including, but not limited to, inspections in 5144
connection with building, zoning, sanitation, fire, plumbing, and 5145
electrical codes, and the taking of actions in connection with 5146
those types of codes, including, but not limited to, the approval 5147
of plans for the construction of buildings or structures and the 5148
issuance or revocation of building permits or stop work orders in 5149
connection with buildings or structures; 5150

(q) Urban renewal projects and the elimination of slum 5151
conditions; 5152

(r) Flood control measures; 5153

(s) The design, construction, reconstruction, renovation, 5154
operation, care, repair, and maintenance of a township cemetery; 5155

(t) The issuance of revenue obligations under section 140.06 5156
of the Revised Code; 5157

(u) The design, construction, reconstruction, renovation, 5158
repair, maintenance, and operation of any park, playground, 5159
playfield, indoor recreational facility, zoo, zoological park, 5160
bath, swimming pool, pond, water park, wading pool, wave pool, 5161
water slide, and other type of aquatic facility, or golf course; 5162

(v) The provision of public defender services by a county or 5163
joint county public defender's office pursuant to Chapter 120. of 5164
the Revised Code; 5165

(w) A function that the general assembly mandates a political 5166
subdivision to perform. 5167

(D) "Law" means any provision of the constitution, statutes, 5168
or rules of the United States or of this state; provisions of 5169
charters, ordinances, resolutions, and rules of political 5170
subdivisions; and written policies adopted by boards of education. 5171
When used in connection with the "common law," this definition 5172
does not apply. 5173

(E) "Motor vehicle" has the same meaning as in section 5174
4511.01 of the Revised Code. 5175

(F) "Political subdivision" or "subdivision" means a 5176
municipal corporation, township, county, school district, or other 5177
body corporate and politic responsible for governmental activities 5178
in a geographic area smaller than that of the state. "Political 5179
subdivision" includes, but is not limited to, a county hospital 5180
commission appointed under section 339.14 of the Revised Code, 5181
regional planning commission created pursuant to section 713.21 of 5182
the Revised Code, county planning commission created pursuant to 5183
section 713.22 of the Revised Code, joint planning council created 5184
pursuant to section 713.231 of the Revised Code, interstate 5185
regional planning commission created pursuant to section 713.30 of 5186
the Revised Code, port authority created pursuant to section 5187
4582.02 or 4582.26 of the Revised Code or in existence on December 5188
16, 1964, regional council established by political subdivisions 5189
pursuant to Chapter 167. of the Revised Code, emergency planning 5190
district and joint emergency planning district designated under 5191
section 3750.03 of the Revised Code, joint emergency medical 5192
services district created pursuant to section 307.052 of the 5193
Revised Code, fire and ambulance district created pursuant to 5194
section 505.375 of the Revised Code, joint interstate emergency 5195
planning district established by an agreement entered into under 5196
that section, county solid waste management district and joint 5197
solid waste management district established under section 343.01 5198
or 343.012 of the Revised Code, and community school established 5199
under Chapter 3314. of the Revised Code. 5200

(G)(1) "Proprietary function" means a function of a political 5201
subdivision that is specified in division (G)(2) of this section 5202
or that satisfies both of the following: 5203

(a) The function is not one described in division (C)(1)(a) 5204
or (b) of this section and is not one specified in division (C)(2) 5205

of this section; 5206

(b) The function is one that promotes or preserves the public 5207
peace, health, safety, or welfare and that involves activities 5208
that are customarily engaged in by nongovernmental persons. 5209
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(2) A "proprietary function" includes, but is not limited to, 5211
the following: 5212

(a) The operation of a hospital by one or more political 5213
subdivisions; 5214

(b) The design, construction, reconstruction, renovation, 5215
repair, maintenance, and operation of a public cemetery other than 5216
a township cemetery; 5217

(c) The establishment, maintenance, and operation of a 5218
utility, including, but not limited to, a light, gas, power, or 5219
heat plant, a railroad, a busline or other transit company, an 5220
airport, and a municipal corporation water supply system; 5221

(d) The maintenance, destruction, operation, and upkeep of a 5222
sewer system; 5223

(e) The operation and control of a public stadium, 5224
auditorium, civic or social center, exhibition hall, arts and 5225
crafts center, band or orchestra, or off-street parking facility. 5226

(H) ~~"Public roads" means public roads, highways, streets,~~ 5227
~~avenues, alleys, and bridges within a political subdivision.~~ 5228
~~"Public roads" does not include berms, shoulders, rights-of-way,~~ 5229
~~or traffic control devices unless the traffic control devices are~~ 5230
~~mandated by the Ohio manual of uniform traffic control devices.~~ 5231

(I) "State" means the state of Ohio, including, but not 5232
limited to, the general assembly, the supreme court, the offices 5233
of all elected state officers, and all departments, boards, 5234
offices, commissions, agencies, colleges and universities, 5235

institutions, and other instrumentalities of the state of Ohio. 5236
"State" does not include political subdivisions. 5237

Sec. 2744.03. (A) In a civil action brought against a 5238
political subdivision or an employee of a political subdivision to 5239
recover damages for injury, death, or loss to persons or property 5240
allegedly caused by any act or omission in connection with a 5241
governmental or proprietary function, the following defenses or 5242
immunities may be asserted to establish nonliability: 5243

(1) The political subdivision is immune from liability if the 5244
employee involved was engaged in the performance of a judicial, 5245
quasi-judicial, prosecutorial, legislative, or quasi-legislative 5246
function. 5247

(2) The political subdivision is immune from liability if the 5248
conduct of the employee involved, other than negligent conduct, 5249
that gave rise to the claim of liability was required by law or 5250
authorized by law, or if the conduct of the employee involved that 5251
gave rise to the claim of liability was necessary or essential to 5252
the exercise of powers of the political subdivision or employee. 5253
5254

(3) The political subdivision is immune from liability if the 5255
action or failure to act by the employee involved that gave rise 5256
to the claim of liability was within the discretion of the 5257
employee with respect to policy-making, planning, or enforcement 5258
powers by virtue of the duties and responsibilities of the office 5259
or position of the employee. 5260

(4) The political subdivision is immune from liability if the 5261
action or failure to act by the political subdivision or employee 5262
involved that gave rise to the claim of liability resulted in 5263
injury or death to a person who had been convicted of or pleaded 5264
guilty to a criminal offense and who, at the time of the injury or 5265
death, was serving any portion of the person's sentence by 5266

performing community service work for or in the political 5267
subdivision whether pursuant to section 2951.02 of the Revised 5268
Code or otherwise, or resulted in injury or death to a child who 5269
was found to be a delinquent child and who, at the time of the 5270
injury or death, was performing community service or community 5271
work for or in a political subdivision in accordance with the 5272
order of a juvenile court entered pursuant to section 2152.19 or 5273
2152.20 of the Revised Code, and if, at the time of the person's 5274
or child's injury or death, the person or child was covered for 5275
purposes of Chapter 4123. of the Revised Code in connection with 5276
the community service or community work for or in the political 5277
subdivision. 5278

(5) The political subdivision is immune from liability if the 5279
injury, death, or loss to persons or property resulted from the 5280
exercise of judgment or discretion in determining whether to 5281
acquire, or how to use, equipment, supplies, materials, personnel, 5282
facilities, and other resources unless the judgment or discretion 5283
was exercised with malicious purpose, in bad faith, or in a wanton 5284
or reckless manner. 5285

(6) In addition to any immunity or defense referred to in 5286
division (A)(7) of this section and in circumstances not covered 5287
by that division or sections 3314.07 and 3746.24 of the Revised 5288
Code, the employee is immune from liability unless one of the 5289
following applies: 5290

(a) The employee's acts or omissions were manifestly outside 5291
the scope of the employee's employment or official 5292
responsibilities; 5293

(b) The employee's acts or omissions were with malicious 5294
purpose, in bad faith, or in a wanton or reckless manner; 5295

(c) Liability is expressly imposed upon the employee by a 5296
section of the Revised Code. ~~Liability shall not be construed to~~ 5297

~~exist under another section of the Revised Code merely because 5298
that section imposes a responsibility or mandatory duty upon an 5299
employee, because of a general authorization in that section that 5300
an employee may sue and be sued, or because the section uses the 5301
term "shall" in a provision pertaining to an employee. 5302~~

(7) The political subdivision, and an employee who is a 5303
county prosecuting attorney, city director of law, village 5304
solicitor, or similar chief legal officer of a political 5305
subdivision, an assistant of any such person, or a judge of a 5306
court of this state is entitled to any defense or immunity 5307
available at common law or established by the Revised Code. 5308

(B) Any immunity or defense conferred upon, or referred to in 5309
connection with, an employee by division (A)(6) or (7) of this 5310
section does not affect or limit any liability of a political 5311
subdivision for an act or omission of the employee as provided in 5312
section 2744.02 of the Revised Code. 5313

Section 2.04. That existing sections 2744.01 and 2744.03 of 5314
the Revised Code as scheduled to take effect on January 1, 2002, 5315
are repealed. 5316

Section 2.05. Sections 2.03 and 2.04 of this act take effect 5317
on January 1, 2002. 5318

Section 3. (A) In Section 2.01 of this act: 5319

(1) Sections 1701.95, 1707.01, 2305.25, 2305.251, 2305.37, 5320
2307.60, 2307.61, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 5321
2744.05, 3123.17, 4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 5322
of the Revised Code, which have been amended by acts subsequent to 5323
their amendment by Am. Sub. H.B. 350 of the 121st General 5324
Assembly, are amended to remove matter inserted by, or to revive 5325
matter removed by, Am. Sub. H.B. 350. Amendments made by Am. Sub. 5326

H.B. 350 or the subsequent acts that are independent of the 5327
purposes of Am. Sub. H.B. 350 are retained. 5328

(2) Section 1901.18 of the Revised Code, as amended 5329
subsequently to Sub. H.B. 350 by Am. Sub. S.B. 1 and Sub. H.B. 302 5330
of the 122nd General Assembly, is amended to ratify a 5331
cross-reference correction made to the section by Am. Sub. H.B. 5332
350. 5333

(3) Sections 109.36, 2117.06, 2125.01, 2125.02, 2125.04, 5334
2305.10, 2305.16, 2305.27, 2305.38, 2307.31, 2307.32, 2307.75, 5335
2307.80, 2315.01, 2315.19, 2501.02, 2744.06, 3722.08, 4112.14, 5336
4113.52, 4171.10, and 4399.18 of the Revised Code are revived and 5337
amended, supersede the versions of the same sections that are 5338
repealed by Section 2.02 of this act, and include amendments that 5339
gender neutralize the language of the sections (as contemplated by 5340
section 1.31 of the Revised Code) and that correct apparent error. 5341

(4) Sections 163.17, 723.01, 1343.03, 1775.14, 2305.01, 5342
2305.11, 2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 2307.78, 5343
2315.20, 2317.62, 2323.51, 2744.04, 4112.99, 4909.42, 5591.36, and 5344
5591.37 of the Revised Code are revived and supersede the versions 5345
of the same sections that are repealed by Section 2.02 of this 5346
act. 5347

(5) Notwithstanding its attempted repeal by Am. Sub. H.B. 5348
350, section 2305.27 of the Revised Code is revived and amended to 5349
gender neutralize the language of the section. 5350

(6) Former sections 2307.31 and 2307.80 of the Revised Code, 5351
as they existed prior to being renumbered by Am. Sub. H.B. 350, 5352
are revived and amended as explained in division (A)(3) of this 5353
section. Am. Sub. H.B. 350 renumbered former sections 2307.31 and 5354
2307.80 of the Revised Code and reassigned their numbers to new 5355
sections. Only new sections 2307.31 and 2307.80 of the Revised 5356
Code, as enacted by Section 1 of Am. Sub. H.B. 350, are repealed 5357

by Section 2.02 of this act. 5358

(7) Section 2315.18 of the Revised Code is revived, 5359
supersedes the version of the same section that is repealed by 5360
Section 2.02 of this act, includes an amendment to respond to 5361
division (C)(2) of section 2315.21 of the Revised Code having been 5362
held unconstitutional by the Supreme Court of Ohio in *Zoppo v.* 5363
Homestead Ins. Co. (1994), 71 Ohio St.3rd 552, and includes an 5364
amendment to change its number to section 2315.07 of the Revised 5365
Code. 5366

(8) Section 2315.21 of the Revised Code is revived, 5367
supersedes the version of the same section that is repealed by 5368
Section 2.02 of this act, and includes amendments to respond to 5369
division (C)(2) of section 2315.21 of the Revised Code having been 5370
held unconstitutional by the Supreme Court of Ohio in *Zoppo v.* 5371
Homestead Ins. Co. (1994), 71 Ohio St.3d 552. 5372

(9) Section 3123.17 of the Revised Code is amended as 5373
explained in division (A)(1) of this section to remove matter 5374
inserted into former section 3113.219 of the Revised Code by Am. 5375
Sub. H.B. 350. Am. Sub. S.B. 180 of the 123rd General Assembly 5376
amended and renumbered former section 3113.219 of the Revised Code 5377
as section 3123.17 of the Revised Code as part of its general 5378
revision of the child support laws. The amendments of Am. Sub. 5379
S.B. 180 are retained. 5380

(B) The repeal by Section 2.02 of this act of: 5381

(1) Sections 1901.041, 1901.17, 1901.181, 1901.20, 1901.262, 5382
1905.032, and 1907.262 of the Revised Code as they result from Am. 5383
Sub. H.B. 350 is intended to enable the sections to remain in 5384
effect as they result from Am. Sub. H.B. 438 of the 121st General 5385
Assembly, 146 Ohio Laws 4823. 5386

(2) Section 2317.45 of the Revised Code responds to the 5387
section having been held unconstitutional by the Supreme Court of 5388

Ohio's decision in <i>Sorrell v. Thevenir</i> (1994), 69 Ohio St.3d 415.	5389
(3) Section 3701.19 of the Revised Code as it results from Am. Sub. H.B. 350 is intended to enable the section to remain in effect as it results from Sub. H.B. 670 of the 121st General Assembly, 146 Ohio Laws 6440.	5390 5391 5392 5393
(C) In Section 2.03 of this act sections 2744.01 and 2744.03 of the Revised Code are amended effective January 1, 2002, to continue the amendments made to those sections by Section 2.01 of this act as explained in division (A)(1) of this section. Sections 2744.01 and 2744.03 were amended subsequently to Am. Sub. H.B. 350 by Am. Sub. S.B. 179 of the 123rd General Assembly, effective January 1, 2002.	5394 5395 5396 5397 5398 5399 5400
Section 4. Because Am. Sub. H.B. 551 of the 123rd General Assembly takes effect on October 5, 2001:	5401 5402
(A) Section 1707.01 of the Revised Code, which is presented in this act as it results from Am. Sub. H.B. 551, takes effect as amended by this act on October 5, 2001.	5403 5404 5405
(B) Divisions (CC), (DD), (EE), (FF), (GG), and (HH) of section 1707.01 of the Revised Code, which were inserted into the section by Am. Sub. H.B. 350 of the 121st General Assembly, are suspended on the effective date of this section, pending section 1707.01 of the Revised Code taking effect as amended by this act on October 5, 2001.	5406 5407 5408 5409 5410 5411
(C) Sections 1707.432, 1707.433, 1707.434, 1707.435, 1707.436, 1707.437, and 1707.438 of the Revised Code, which were enacted by Am. Sub. H.B. 350, are suspended on the effective date of this section, pending their repeal by Am. Sub. H.B. 551 taking effect on October 5, 2001.	5412 5413 5414 5415 5416
Section 5.01. That Section 3 of Am. Sub. H.B. 438 of the	5417

121st General Assembly, which was amended by Am. Sub. H.B. 350 of 5418
the 121st General Assembly, be amended to read as follows: 5419

"**Sec. 3.** Sections 1 and 2 of Am. Sub. H.B. 438 of the 121st 5420
General Assembly shall take effect on July 1, 1997, ~~except that~~ 5421
~~section 2317.023 of the Revised Code, as amended by Am. Sub. H.B.~~ 5422
~~438 of the 121st General Assembly, shall take effect on the~~ 5423
~~effective date of Am. Sub. H.B. 350 of the 121st General~~ 5424
~~Assembly."~~ 5425

Section 5.02. That existing Section 3 of Am. Sub. H.B. 438 of 5426
the 121st General Assembly is repealed. 5427

Section 5.03. Notwithstanding the attempted amendment of 5428
Section 3 of Am. Sub. H.B. 438 by Am. Sub. H.B. 350 of the 121st 5429
General Assembly, section 2317.023 of the Revised Code, as enacted 5430
by Am. Sub. H.B. 438 of the 121st General Assembly, took effect on 5431
July 1, 1997. 5432

Section 6. Sections 3, 4, 5, 6, 7, 8, 9, 13, and 16 of Am. 5433
Sub. H.B. 350 of the 121st General Assembly are repealed. 5434

Section 7. In sections contained in this act that have been 5435
amended by acts subsequent to their amendment by Am. Sub. H.B. 350 5436
of the 121st General Assembly (other than section 1901.18 of the 5437
Revised Code), matter removed by Am. Sub. H.B. 350 is revived, and 5438
matter inserted by Am. Sub. H.B. 350 is removed, by amendment 5439
indicated as directed in rule 103-5-01 of the Administrative Code. 5440
But, notwithstanding rule 103-5-01 of the Administrative Code, in 5441
sections contained in this act that have not been amended by acts 5442
subsequent to their amendment by Am. Sub. H.B. 350 of the 121st 5443
General Assembly (1) matter removed by Am. Sub. H.B. 350 is 5444
revived by being reinserted without underlining, so as to indicate 5445

the intention that it is old law that is being revived and (2) 5446
matter inserted by Am. Sub. H.B. 350 is removed by being omitted, 5447
so as to indicate the intention that, by virtue of its 5448
noninclusion, it is being repealed because constitutionally 5449
meaningless. In section 1901.18 of the Revised Code, ratification 5450
of Sub. H.B. 350's cross-reference correction is indicated by 5451
amendment as directed in rule 103-5-01 of the Administrative Code. 5452

Section 8. Section 109.36 of the Revised Code is presented in 5453
this act as a composite of the section as amended by both Sub. 5454
H.B. 715 and Am. Sub. H.B. 571 of the 120th General Assembly. 5455
Section 4112.02 of the Revised Code is presented in this act as a 5456
composite of the section as amended by both Am. H.B. 264 and H.B. 5457
471 of the 123rd General Assembly. The General Assembly, applying 5458
the principle stated in division (B) of section 1.52 of the 5459
Revised Code that amendments are to be harmonized if reasonably 5460
capable of simultaneous operation, finds that the composites are 5461
the resulting version of the sections in effect prior to the 5462
effective date of the sections as presented in this act. 5463

Section 9. This act is an emergency measure necessary for the 5464
immediate preservation of the public peace, health, and safety. 5465
The reason for the necessity is that repeal of the Tort Reform Act 5466
and revival of prior law will clarify the status of law that is 5467
unsettled as a result of the act being held unconstitutional. 5468
Therefore, this act goes into immediate effect. 5469