

As Reported by the Senate Judiciary--Civil Justice Committee

124th General Assembly

Regular Session

2001-2002

S. B. No. 108

SENATORS Jacobson, Austria, Amstutz

A B I L L

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1707.01. As used in this chapter: 303

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any licensed attorney, public accountant, or firm of such
attorneys or accountants, whose activities are incidental to the
practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in
the purchase or sale of securities that are issued and outstanding
before such purchase and sale, if a majority or more of the equity
interest of an issuer is sold in that transaction, and if, in the
case of a corporation, the securities sold in that transaction
represent a majority or more of the voting power of the
corporation in the election of directors;

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

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

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

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

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

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

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

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

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

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

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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.

(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.

(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.

(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.

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

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

(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.

(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.

(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.

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

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

(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

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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
of this state if either of the following applies:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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relating to the products or services of the issuer; 676

~~(3) A statement of future economic performance, including any statement of that nature contained in a discussion and analysis of financial conditions by the management or in the results of operations included pursuant to the rules and regulations of the securities and exchange commission;~~ 677 678 679 680 681

~~(4) Any disclosed statement of the assumptions underlying or relating to a statement described in division (B)(1), (2), or (3) of section 1707.437 of the Revised Code;~~ 682 683 684

~~(5) Any report issued by an outside reviewer retained by an issuer to the extent that the report relates to a forward-looking statement made by the issuer;~~ 685 686 687

~~(6) A statement containing a projection or estimate of any other items that may be specified by rule or regulation of the securities and exchange commission.~~ 688 689 690

~~(II)~~(1) "Investment adviser representative" means a 691 supervised person of an investment adviser, provided that the 692 supervised person has more than five clients who are natural 693 persons other than excepted persons defined in division ~~(KK)~~(EE) 694 of this section, and that more than ten per cent of the supervised 695 person's clients are natural persons other than excepted persons 696 defined in division ~~(KK)~~(EE) of this section. "Investment adviser 697 representative" does not mean any of the following: 698

(a) A supervised person that does not on a regular basis 699 solicit, meet with, or otherwise communicate with clients of the 700 investment adviser; 701

(b) A supervised person that provides only investment 702 advisory services described in division (X)(1) of this section by 703 means of written materials or oral statements that do not purport 704 to meet the objectives or needs of specific individuals or 705 accounts; 706

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(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 ~~(HH)~~(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 ~~(HH)~~(CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division ~~(HH)~~(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 ~~(HH)~~(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.

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

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

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functions with respect to an investment adviser; 739

(2) An employee of an investment adviser; 740

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

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

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

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

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

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

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

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

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

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

If subsequent to March 18, 1999, amendments are enacted or
adopted defining "excepted person" 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 "excepted person" 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.

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

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

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

(2) If subsequent to March 18, 1999, amendments are enacted
or adopted defining "qualified purchaser" 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 "qualified purchaser" for purposes of

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the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt 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.

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

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

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

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

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

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include any of the following: 831

(1) A loan by an insurer under the terms of a life insurance 832
policy, including, but not limited to, a loan secured by the cash 833
value of the policy; 834

(2) An agreement with a bank that takes an assignment of a 835
life insurance policy as collateral for a loan; 836

(3) The provision of accelerated benefits as defined in 837
section 3915.21 of the Revised Code; 838

(4) Any agreement between an insurer and a reinsurer; 839

(5) An agreement by an individual to purchase an existing 840
life insurance policy or contract from the original owner of the 841
policy or contract, if the individual does not enter into more 842
than one life settlement contract per calendar year; 843

(6) The initial purchase of an insurance policy or 844
certificate of insurance from its owner by a viatical settlement 845
provider, as defined in section 3916.01 of the Revised Code, that 846
is licensed under Chapter 3916. of the Revised Code. 847

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 848
Code and except as provided in division (B) of this section, all 849
partners are liable as follows: 850

(1) Jointly and severally for everything chargeable to the 851
partnership under sections 1775.12 and 1775.13 of the Revised 852
Code. This joint and several liability is not subject to division 853
(D) of section 2315.19 of the Revised Code with respect to a 854
negligence claim that otherwise is subject to that section. 855

(2) Jointly for all other debts and obligations of the 856
partnership, but any partner may enter into a separate obligation 857
to perform a partnership contract. 858

(B) Subject to divisions (C)(1) and (2) of this section or as 859

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

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

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

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

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

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monetary jurisdiction of municipal courts as set forth in section 891
1901.17 of the Revised Code, a municipal court has original 892
jurisdiction within its territory in all of the following actions 893
or proceedings and to perform all of the following functions: 894

(1) In any civil action, of whatever nature or remedy, of 895
which judges of county courts have jurisdiction; 896

(2) In any action or proceeding at law for the recovery of 897
money or personal property of which the court of common pleas has 898
jurisdiction; 899

(3) In any action at law based on contract, to determine, 900
preserve, and enforce all legal and equitable rights involved in 901
the contract, to decree an accounting, reformation, or 902
cancellation of the contract, and to hear and determine all legal 903
and equitable remedies necessary or proper for a complete 904
determination of the rights of the parties to the contract; 905

(4) In any action or proceeding for the sale of personal 906
property under chattel mortgage, lien, encumbrance, or other 907
charge, for the foreclosure and marshalling of liens on personal 908
property of that nature, and for the rendering of personal 909
judgment in the action or proceeding; 910

(5) In any action or proceeding to enforce the collection of 911
its own judgments or the judgments rendered by any court within 912
the territory to which the municipal court has succeeded, and to 913
subject the interest of a judgment debtor in personal property to 914
satisfy judgments enforceable by the municipal court; 915

(6) In any action or proceeding in the nature of 916
interpleader; 917

(7) In any action of replevin; 918

(8) In any action of forcible entry and detainer; 919

(9) In any action concerning the issuance and enforcement of 920

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

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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
presented, then, in addition to the factors described in divisions
(A)(3)(b)(i) and (ii) of this section, the jury or court may
consider that evidence in determining the damages suffered by the
surviving spouse by reason of the wrongful death.

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

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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

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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
year immediately prior to the date of the death of the minor.

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

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

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

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

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

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court. 1262

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

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

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

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

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

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

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

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

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

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(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

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dilation and extraction procedure. 1356

(D) As used in this section: 1357

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

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

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

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

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

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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.

(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:

(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;

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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patient; 1511

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) "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 contract or another agreement between persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "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 a breach of contract or another agreement between
persons.

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

(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

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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
organization, and that are reimbursed to the volunteer or
otherwise paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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 1937
against two or more tortfeasors for the same injury or loss to 1938
person or property or for the same wrongful death, contribution 1939
may be enforced by separate action. 1940

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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is greater:

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(i) Two hundred dollars;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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.

(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.

(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.

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

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

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

(H) As used in this section:

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

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

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

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

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

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

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

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

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whose behalf such a claim is asserted; 2214

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

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

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

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

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

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

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

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(F) "Foreseeable risk" means a risk of harm that satisfies 2244
both of the following: 2245

(1) It is associated with an intended or reasonably 2246
foreseeable use, modification, or alteration of a product in 2247
question; 2248

(2) It is a risk that the manufacturer in question should 2249
recognize while exercising both of the following: 2250

(a) The attention, perception, memory, knowledge, and 2251
intelligence that a reasonable manufacturer should possess; 2252

(b) Any superior attention, perception, memory, knowledge, or 2253
intelligence that the manufacturer in question possesses. 2254

(G) "Harm" means death, physical injury to person, serious 2255
emotional distress, or physical damage to property other than the 2256
product in question. Economic loss is not "harm." 2257

(H) "Hazardous or toxic substances" include, but are not 2258
limited to, hazardous waste as defined in section 3734.01 of the 2259
Revised Code, hazardous waste as specified in the rules of the 2260
director of environmental protection pursuant to division (A) of 2261
section 3734.12 of the Revised Code, hazardous substances as 2262
defined in section 3716.01 of the Revised Code, and hazardous 2263
substances, pollutants, and contaminants as defined in or by 2264
regulations adopted pursuant to the "Comprehensive Environmental 2265
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 2266
42 U.S.C. 9601, as amended. 2267

(I) "Manufacturer" means a person engaged in a business to 2268
design, formulate, produce, create, make, construct, assemble, or 2269
rebuild a product or a component of a product. 2270

(J) "Person" has the same meaning as in division (C) of 2271
section 1.59 of the Revised Code and also includes governmental 2272
entities. 2273

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

(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:

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

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

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

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

(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:

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

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

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

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

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

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

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

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

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

(a) A manufacturer; 2316

(b) A seller of real property; 2317

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

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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

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

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

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

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

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

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

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permits them to offer evidence in their original cases. 2574

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

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

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

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

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

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agreeing, the court may discharge the jury. 2604

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) As used in this section: 2745

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

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

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

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

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

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

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

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

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

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

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

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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:

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(1) The actions or omissions of that defendant demonstrate 2817
malice, aggravated or egregious fraud, oppression, or insult, or 2818
that defendant as principal or master authorized, participated in, 2819
or ratified actions or omissions of an agent or servant that so 2820
demonstrate; 2821

(2) The plaintiff in question has adduced proof of actual 2822
damages that resulted from actions or omissions as described in 2823
division (B)(1) of this section. 2824

(C)(1) In a tort action, the trier of fact shall determine 2825
the liability of any defendant for punitive or exemplary damages. 2826

(2) In a tort action, whether the trier of fact is a jury or 2827
the court, if the trier of fact determines that any defendant is 2828
liable for punitive or exemplary damages, the amount of those 2829
damages shall be determined by the court. 2830

(3) In a tort action, the burden of proof shall be upon a 2831
plaintiff in question, by clear and convincing evidence, to 2832
establish that ~~he~~ the plaintiff is entitled to recover punitive or 2833
exemplary damages. 2834

(D) This section does not apply to tort actions against the 2835
state in the court of claims or to the extent that another section 2836
of the Revised Code expressly provides any of the following: 2837

(1) Punitive or exemplary damages are recoverable from a 2838
defendant in question in a tort action on a basis other than that 2839
the actions or omissions of that defendant demonstrate malice, 2840
aggravated or egregious fraud, oppression, or insult, or on a 2841
basis other than that the defendant in question as principal or 2842
master authorized, participated in, or ratified actions or 2843
omissions of an agent or servant that so demonstrate; 2844

(2) Punitive or exemplary damages are recoverable from a 2845
defendant in question in a tort action irrespective of whether the 2846
plaintiff in question has adduced proof of actual damages; 2847

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

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

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

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

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

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

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

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

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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 an injury
or loss to person or property that is a subject of a tort action
and that will accrue after the verdict or determination of
liability by the trier of fact is rendered in that tort action.

(3) "Tort action" means a civil action for damages for injury
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 contract or another agreement between persons.

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

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

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

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

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

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

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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

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

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

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

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

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

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

(6) "State correctional institution" has the same meaning as 2971
in section 2967.01 of the Revised Code. 2972

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of 2973
this section, at any time prior to the commencement of the trial 2974
in a civil action or within twenty-one days after the entry of 2975
judgment in a civil action or at any time prior to the hearing in 2976
an appeal of the type described in division (A)(1)(b) of this 2977
section that is filed by an inmate or within twenty-one days after 2978
the entry of judgment in an appeal of that nature, the court may 2979
award court costs, reasonable attorney's fees, and other 2980
reasonable expenses incurred in connection with the civil action 2981
or appeal to any party to the civil action or appeal who was 2982
adversely affected by frivolous conduct. The award may be assessed 2983
as provided in division (B)(4) of this section. 2984

(2) An award may be made pursuant to division (B)(1) of this 2985
section upon the motion of a party to a civil action or an appeal 2986
of the type described in that division, but only after the court 2987
does all of the following: 2988

(a) Sets a date for a hearing to be conducted in accordance 2989
with division (B)(2)(c) of this section, to determine whether 2990
particular conduct was frivolous, to determine, if the conduct was 2991
frivolous, whether any party was adversely affected by it, and to 2992
determine, if an award is to be made, the amount of that award; 2993

(b) Gives notice of the date of the hearing described in 2994
division (B)(2)(a) of this section to each party or counsel of 2995
record who allegedly engaged in frivolous conduct and to each 2996
party who allegedly was adversely affected by frivolous conduct; 2997

(c) Conducts the hearing described in division (B)(2)(a) of 2998
this section in accordance with this division, allows the parties 2999

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

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

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

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

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

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

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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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judgment. 3155

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

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

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

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

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

Sec. 2744.01. As used in this chapter: 3199

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(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

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

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

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

(b) The function is one that promotes or preserves the public
peace, health, safety, or welfare and that involves activities
that are customarily engaged in by nongovernmental persons.

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

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

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

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

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

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

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

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

~~(I) "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, colleges and universities,
institutions, and other instrumentalities of the state of Ohio.
"State" does not include political subdivisions.~~

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

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

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

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proprietary function, as follows:

(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:

(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;

(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;

(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.

(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 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~~

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

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

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

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

(2) The political subdivision is immune from liability if the 3481
conduct of the employee involved, other than negligent conduct, 3482
that gave rise to the claim of liability was required by law or 3483
authorized by law, or if the conduct of the employee involved that 3484
gave rise to the claim of liability was necessary or essential to 3485
the exercise of powers of the political subdivision or employee. 3486
3487

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

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

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

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

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

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

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

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(c) Liability is expressly imposed upon the employee by a section 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 upon an employee, because of a general authorization in that section that an employee may sue and be sued, or because the section uses the term "shall" in a provision pertaining to an employee.~~

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

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

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

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

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

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

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

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

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~~(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

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

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

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

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

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

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

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

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

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

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

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

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necessary because of the injury; 3684

(iii) All expenditures of a person whose property was injured 3685
or destroyed or of another person on ~~his~~ behalf of the person 3686
whose property was injured or destroyed in order to repair or 3687
replace the property that was injured or destroyed; 3688

(iv) All expenditures of the person injured or whose property 3689
was injured or destroyed or of another person on ~~his~~ behalf of the 3690
person injured or whose property was injured or destroyed in 3691
relation to the actual preparation or presentation of the person's 3692
claim; 3693

(v) Any other expenditures of the person injured or ~~of the~~ 3694
~~person~~ whose property was injured or destroyed or of another 3695
person on ~~his~~ behalf of the person injured or whose property was 3696
injured or destroyed that the court determines represent an actual 3697
loss experienced because of the personal or property injury or 3698
property loss. 3699

(b) As used in this division, "the actual loss of the person 3700
who is awarded the damages" does not include any of the following: 3701

(i) Wages, salaries, or other compensation lost by the person 3702
injured as a result of the injury, that are future expected 3703
earnings of such a person; 3704

(ii) Expenditures to be incurred in the future, as determined 3705
by the court, by the person injured or by another person on ~~his~~ 3706
behalf of the person injured for medical care or treatment, for 3707
rehabilitation services, or for other care, treatment, services, 3708
products, or accommodations that will be necessary because of the 3709
injury; 3710

(iii) Any fees paid or owed to an attorney for any services 3711
rendered in relation to a personal or property injury or property 3712
loss; 3713

(iv) Any damages awarded for pain and suffering, for the loss 3714

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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has failed to pay a penalty imposed under this section shall not 3840
be renewed until the penalty has been paid. 3841

(G) If a penalty is imposed under this section, a fine shall 3842
not be imposed under section 3722.99 of the Revised Code for the 3843
same violation. 3844

(H) Notwithstanding any other division of this section, the 3845
director shall not impose a penalty for a class I violation if all 3846
of the following apply: 3847

(1) A resident has not suffered physical harm because of the 3848
violation; 3849

(2) The violation has been corrected and is no longer 3850
occurring; 3851

(3) The violation is discovered by an inspector authorized to 3852
inspect an adult care facility pursuant to this chapter by ~~his~~ an 3853
examination of the records of the facility. 3854

Sec. 4112.02. It shall be an unlawful discriminatory 3855
practice: 3856

(A) For any employer, because of the race, color, religion, 3857
sex, national origin, disability, age, or ancestry of any person, 3858
to discharge without just cause, to refuse to hire, or otherwise 3859
to discriminate against that person with respect to hire, tenure, 3860
terms, conditions, or privileges of employment, or any matter 3861
directly or indirectly related to employment. 3862

(B) For an employment agency or personnel placement service, 3863
because of race, color, religion, sex, national origin, 3864
disability, age, or ancestry, to do any of the following: 3865

(1) Refuse or fail to accept, register, classify properly, or 3866
refer for employment, or otherwise discriminate against any 3867
person; 3868

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

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

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

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

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

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

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

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

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

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

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

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

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

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(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;

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

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

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

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

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

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

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

(a) The lowering of property values; 4021

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

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

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(b) A person residing in or intending to reside in the 4056
housing accommodations after they are sold, rented, or made 4057
available; 4058

(c) Any individual associated with the person described in 4059
division (H)(15)(b) of this section. 4060

(16) Discriminate in the terms, conditions, or privileges of 4061
the sale or rental of housing accommodations to any person or in 4062
the provision of services or facilities to any person in 4063
connection with the housing accommodations because of a disability 4064
of any of the following: 4065

(a) That person; 4066

(b) A person residing in or intending to reside in the 4067
housing accommodations after they are sold, rented, or made 4068
available; 4069

(c) Any individual associated with the person described in 4070
division (H)(16)(b) of this section. 4071

(17) Except as otherwise provided in division (H)(17) of this 4072
section, make an inquiry to determine whether an applicant for the 4073
sale or rental of housing accommodations, a person residing in or 4074
intending to reside in the housing accommodations after they are 4075
sold, rented, or made available, or any individual associated with 4076
that person has a disability, or make an inquiry to determine the 4077
nature or severity of a disability of the applicant or such a 4078
person or individual. The following inquiries may be made of all 4079
applicants for the sale or rental of housing accommodations, 4080
regardless of whether they have disabilities: 4081

(a) An inquiry into an applicant's ability to meet the 4082
requirements of ownership or tenancy; 4083

(b) An inquiry to determine whether an applicant is qualified 4084
for housing accommodations available only to persons with 4085

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disabilities or persons with a particular type of disability; 4086

(c) An inquiry to determine whether an applicant is qualified 4087
for a priority available to persons with disabilities or persons 4088
with a particular type of disability; 4089

(d) An inquiry to determine whether an applicant currently 4090
uses a controlled substance in violation of section 2925.11 of the 4091
Revised Code or a substantively comparable municipal ordinance; 4092

(e) An inquiry to determine whether an applicant at any time 4093
has been convicted of or pleaded guilty to any offense, an element 4094
of which is the illegal sale, offer to sell, cultivation, 4095
manufacture, other production, shipment, transportation, delivery, 4096
or other distribution of a controlled substance. 4097

(18)(a) Refuse to permit, at the expense of a person with a 4098
disability, reasonable modifications of existing housing 4099
accommodations that are occupied or to be occupied by the person 4100
with a disability, if the modifications may be necessary to afford 4101
the person with a disability full enjoyment of the housing 4102
accommodations. This division does not preclude a landlord of 4103
housing accommodations that are rented or to be rented to a 4104
disabled tenant from conditioning permission for a proposed 4105
modification upon the disabled tenant's doing one or more of the 4106
following: 4107

(i) Providing a reasonable description of the proposed 4108
modification and reasonable assurances that the proposed 4109
modification will be made in a workerlike manner and that any 4110
required building permits will be obtained prior to the 4111
commencement of the proposed modification; 4112

(ii) Agreeing to restore at the end of the tenancy the 4113
interior of the housing accommodations to the condition they were 4114
in prior to the proposed modification, but subject to reasonable 4115
wear and tear during the period of occupancy, if it is reasonable 4116

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

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

(b) A landlord shall not condition permission for a proposed 4131
modification upon a disabled tenant's payment of a security 4132
deposit that exceeds the customarily required security deposit of 4133
all tenants of the particular housing accommodations. 4134

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

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

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

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

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

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

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

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

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

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

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

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

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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

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

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

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

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

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

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

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

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(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;

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

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

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

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

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(1) The designation of uniform age the attainment of which is 4306
necessary for public employees to receive pension or other 4307
retirement benefits pursuant to Chapter 145., 742., 3307., 3309., 4308
or 5505. of the Revised Code; 4309

(2) The mandatory retirement of uniformed patrol officers of 4310
the state highway patrol as provided in section 5505.16 of the 4311
Revised Code; 4312

(3) The maximum age requirements for appointment as a patrol 4313
officer in the state highway patrol established by section 5503.01 4314
of the Revised Code; 4315

(4) The maximum age requirements established for original 4316
appointment to a police department or fire department in sections 4317
124.41 and 124.42 of the Revised Code; 4318

(5) Any maximum age not in conflict with federal law that may 4319
be established by a municipal charter, municipal ordinance, or 4320
resolution of a board of township trustees for original 4321
appointment as a police officer or firefighter; 4322

(6) Any mandatory retirement provision not in conflict with 4323
federal law of a municipal charter, municipal ordinance, or 4324
resolution of a board of township trustees pertaining to police 4325
officers and firefighters; 4326

(7) Until January 1, 1994, the mandatory retirement of any 4327
employee who has attained seventy years of age and who is serving 4328
under a contract of unlimited tenure, or similar arrangement 4329
providing for unlimited tenure, at an institution of higher 4330
education as defined in the "Education Amendments of 1980," 94 4331
Stat. 1503, 20 U.S.C.A. 1141(a). 4332

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this 4333
section, for purposes of divisions (A) to (E) of this section, a 4334
disability does not include any physiological disorder or 4335
condition, mental or psychological disorder, or disease or 4336

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

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

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

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

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

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

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

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

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

(e) Holding an employee who engages in the illegal use of any 4376
controlled substance or who is an alcoholic to the same 4377
qualification standards for employment or job performance, and the 4378
same behavior, to which the employer, employment agency, personnel 4379
placement service, labor organization, or joint labor-management 4380
committee holds other employees, even if any unsatisfactory 4381
performance or behavior is related to an employee's illegal use of 4382
a controlled substance or alcoholism; 4383

(f) Exercising other authority recognized in the "Americans 4384
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 4385
as amended, including, but not limited to, requiring employees to 4386
comply with any applicable federal standards. 4387

(3) For purposes of this chapter, a test to determine the 4388
illegal use of any controlled substance does not include a medical 4389
examination. 4390

(4) Division (Q) of this section does not encourage, 4391
prohibit, or authorize, and shall not be construed as encouraging, 4392
prohibiting, or authorizing, the conduct of testing for the 4393
illegal use of any controlled substance by employees, applicants, 4394
or other persons, or the making of employment decisions based on 4395
the results of that type of testing. 4396

Sec. 4112.14. (A) No employer shall discriminate in any job 4397

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opening against any applicant or discharge without just cause any 4398
employee aged forty or older who is physically able to perform the 4399
duties and otherwise meets the established requirements of the job 4400
and laws pertaining to the relationship between employer and 4401
employee. 4402

(B) Any person aged forty or older who is discriminated 4403
against in any job opening or discharged without just cause by an 4404
employer in violation of division (A) of this section may 4405
institute a civil action against the employer in a court of 4406
competent jurisdiction. If the court finds that an employer has 4407
discriminated on the basis of age, the court shall order an 4408
appropriate remedy which shall include reimbursement to ~~him~~ the 4409
applicant or employee for the costs, including reasonable ~~attorney~~ 4410
attorney's fees, of the action, or to reinstate the employee in 4411
~~his~~ the employee's former position with compensation for lost 4412
wages and any lost fringe benefits from the date of the illegal 4413
discharge and to reimburse ~~him~~ the employee for the costs, 4414
including reasonable ~~attorney~~ attorney's fees, of the action. The 4415
remedies available under this section are coexistent with remedies 4416
available pursuant to sections 4112.01 to 4112.11 of the Revised 4417
Code; except that any person instituting a civil action under this 4418
section is, with respect to the practices complained of, thereby 4419
barred from instituting a civil action under division (N) of 4420
section 4112.02 of the Revised Code or from filing a charge with 4421
the Ohio civil rights commission under section 4112.05 of the 4422
Revised Code. 4423

(C) The cause of action described in division (B) of this 4424
section and any remedies available pursuant to sections 4112.01 to 4425
4112.11 of the Revised Code shall not be available in the case of 4426
discharges where the employee has available to ~~him~~ the employee 4427
the opportunity to arbitrate the discharge or where a discharge 4428
has been arbitrated and has been found to be for just cause. 4429

Sec. 4112.99. Whoever violates this chapter is subject to a 4430
civil action for damages, injunctive relief, or any other 4431
appropriate relief. 4432

Sec. 4113.52. (A)(1)(a) If an employee becomes aware in the 4433
course of ~~his~~ the employee's employment of a violation of any 4434
state or federal statute or any ordinance or regulation of a 4435
political subdivision that ~~his~~ the employee's employer has 4436
authority to correct, and the employee reasonably believes that 4437
the violation either is a criminal offense that is likely to cause 4438
an imminent risk of physical harm to persons or a hazard to public 4439
health or safety or is a felony, the employee orally shall notify 4440
~~his~~ the employee's supervisor or other responsible officer of ~~his~~ 4441
the employee's employer of the violation and subsequently shall 4442
file with that supervisor or officer a written report that 4443
provides sufficient detail to identify and describe the violation. 4444
If the employer does not correct the violation or make a 4445
reasonable and good faith effort to correct the violation within 4446
twenty-four hours after the oral notification or the receipt of 4447
the report, whichever is earlier, the employee may file a written 4448
report that provides sufficient detail to identify and describe 4449
the violation with the prosecuting authority of the county or 4450
municipal corporation where the violation occurred, with a peace 4451
officer, with the inspector general if the violation is within ~~his~~ 4452
the inspector general's jurisdiction, or with any other 4453
appropriate public official or agency that has regulatory 4454
authority over the employer and the industry, trade, or business 4455
in which ~~he~~ the employer is engaged. 4456

(b) If an employee makes a report under division (A)(1)(a) of 4457
this section, the employer, within twenty-four hours after the 4458
oral notification was made or the report was received or by the 4459
close of business on the next regular business day following the 4460

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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

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disciplinary or retaliatory action taken by an appointing 4524
authority against the employee as a result of the employee's 4525
having filed a report under division (A) of section 124.341 of the 4526
Revised Code. 4527

(E) The court, in rendering a judgment for the employee in an 4528
action brought pursuant to division (D) of this section, may 4529
order, as it determines appropriate, reinstatement of the employee 4530
to the same position ~~he~~ that the employee held at the time of the 4531
disciplinary or retaliatory action and at the same site of 4532
employment or to a comparable position at that site, the payment 4533
of back wages, full reinstatement of fringe benefits and seniority 4534
rights, or any combination of these remedies. The court also may 4535
award the prevailing party all or a portion of the costs of 4536
litigation, and, if the employee who brought the action prevails 4537
in the action, may award the prevailing employee reasonable 4538
attorney's fees, witness fees, and fees for experts who testify at 4539
trial, in an amount the court determines appropriate. If the court 4540
determines that an employer deliberately has violated division (B) 4541
of this section, the court, in making an award of back pay, may 4542
include interest at the rate specified in section 1343.03 of the 4543
Revised Code. 4544

(F) Any report filed with the inspector general under this 4545
section shall be filed as a complaint in accordance with section 4546
121.46 of the Revised Code. 4547

Sec. 4171.10. The express assumption of risk set forth in 4548
section 4171.09 of the Revised Code shall serve as a complete 4549
defense to a suit against an operator by a roller skater for 4550
injuries resulting from the assumed risks of roller skating. The 4551
comparative negligence provisions of section 2315.19 of the 4552
Revised Code shall not apply unless the operator has breached ~~his~~ 4553
the operator's duties pursuant to sections 4171.06 and 4171.07 of 4554

the Revised Code.

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Sec. 4399.18. Notwithstanding section 2307.60 of the Revised Code and except as otherwise provided in this section and in section 4399.01 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 any liquor permit holder or ~~his~~ an employee of a liquor permit holder who sold beer or intoxicating liquor to the intoxicated person unless the injury, death, or property damage occurred on the permit holder's premises or in a parking lot under ~~his~~ the control of the permit holder and was proximately caused by the negligence of the permit holder or ~~his employees~~ an employee of the permit holder. A person has a cause of action against a permit holder or ~~his~~ an employee of a permit holder for personal injury, death, or property damage caused by the negligent actions of an intoxicated person occurring off the premises or away from a parking lot under the permit holder's control only when both of the following can be shown by a preponderance of the evidence:

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

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

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

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(3) A person in violation of section 4301.69 of the Revised Code~~+~~.

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

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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

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imputed to the adult pursuant to that division.

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

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

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

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

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temporary instruction permit subsequently is canceled by the 4648
registrar may obtain a new license or temporary instruction permit 4649
without having to undergo the examinations otherwise required by 4650
sections 4507.11 and 4507.12 of the Revised Code and without 4651
having to tender the fee for that license or temporary instruction 4652
permit, if the minor is able to produce another parent, guardian, 4653
other person having custody of the minor, or other adult, and that 4654
adult is willing to assume the liability imposed under division 4655
(B) of this section. That adult shall comply with the procedures 4656
contained in division (A) of this section. 4657

Sec. 4513.263. (A) As used in this section and in section 4658
4513.99 of the Revised Code: 4659

(1) "Automobile" means any commercial tractor, passenger car, 4660
commercial car, or truck that is required to be factory-equipped 4661
with an occupant restraining device for the operator or any 4662
passenger by regulations adopted by the United States secretary of 4663
transportation pursuant to the "National Traffic and Motor Vehicle 4664
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 4665

(2) "Occupant restraining device" means a seat safety belt, 4666
shoulder belt, harness, or other safety device for restraining a 4667
person who is an operator of or passenger in an automobile and 4668
that satisfies the minimum federal vehicle safety standards 4669
established by the United States department of transportation. 4670
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(3) "Passenger" means any person in an automobile, other than 4672
its operator, who is occupying a seating position for which an 4673
occupant restraining device is provided. 4674

(4) "Commercial tractor," "passenger car," and "commercial 4675
car" have the same meanings as in section 4501.01 of the Revised 4676
Code. 4677

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(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.

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

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

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

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

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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.

(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.

(3) Two per cent shall be deposited into the Ohio ambulance
licensing trust fund created by section 4766.05 of the Revised
Code.

(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.

(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.

(F) ~~The (1) Subject to division (F)(2) of this section, the~~
failure of a person to wear all of the available elements of a
properly adjusted occupant restraining device ~~in violation of~~
~~division (B)(1) or (3) of this section or the failure of a person~~
to ensure that each ~~minor who is a~~ passenger of an automobile
being operated by ~~that~~ the person is wearing all of the available
elements of such a ~~properly adjusted occupant restraining device,~~
in violation of division (B)(2) of this section, shall not be
considered ~~by the trier of fact in a tort action or used~~ as

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~~evidence of negligence or contributory negligence or other~~ 4771
~~tortious conduct or considered for any other relevant purpose if~~ 4772
~~the failure contributed to the harm alleged in the tort action and~~ 4773
~~may, shall not diminish pursuant to section 2315.19 or 2315.20 of~~ 4774
~~the Revised Code a recovery of compensatory for damages in a tort~~ 4775
any civil action involving the person arising from the ownership, 4776
maintenance, or operation of an automobile; shall not be used as a 4777
basis for a criminal prosecution of the person other than a 4778
prosecution for a violation of this section; and shall not be 4779
admissible as evidence in ~~a~~ any civil or criminal action involving 4780
the person other than a prosecution for a violation of this 4781
section. 4782

(2) If, at the time of an accident involving a passenger car 4783
equipped with occupant restraining devices, any occupant of the 4784
passenger car who sustained injury or death was not wearing an 4785
available occupant restraining device, was not wearing all of the 4786
available elements of such a device, or was not wearing such a 4787
device as properly adjusted, then, consistent with the Rules of 4788
Evidence, the fact that the occupant was not wearing the available 4789
occupant restraining device, was not wearing all of the available 4790
elements of such a device, or was not wearing such a device as 4791
properly adjusted is admissible in evidence in relation to any 4792
claim for relief in a tort action to the extent that the claim for 4793
relief satisfies all of the following: 4794

(a) It seeks to recover damages for injury or death to the 4795
occupant. 4796

(b) The defendant in question is the manufacturer, designer, 4797
distributor, or seller of the passenger car. 4798

(c) The claim for relief against the defendant in question is 4799
that the injury or death sustained by the occupant was enhanced or 4800
aggravated by some design defect in the passenger car or that the 4801
passenger car was not crashworthy. 4802

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(3) As used in division (F)(2) of this section, "tort action" 4803
means a civil action for damages for injury, death, or loss to 4804
person or property. "Tort action" includes a product liability 4805
claim that is subject to sections 2307.71 to 2307.80 of the 4806
Revised Code, but does not include a civil action for damages for 4807
a breach of a contract or another agreement between persons. 4808

Sec. 4582.27. (A) A port authority created in accordance with 4809
section 4582.22 of the Revised Code shall be governed by a board 4810
of directors. Members of a board of directors of a port authority 4811
created by the exclusive action of a municipal corporation shall 4812
consist of the number of members it considers necessary and shall 4813
be appointed by the mayor with the advice and consent of the 4814
council. Members of a board of directors of a port authority 4815
created by the exclusive action of a township shall consist of 4816
such members as it considers necessary and shall be appointed by 4817
the township trustees of the township. Members of a board of 4818
directors of a port authority created by the exclusive action of a 4819
county shall consist of such members as it considers necessary and 4820
shall be appointed by the board of county commissioners of the 4821
county. Members of a board of directors of a port authority 4822
created by a combination of political subdivisions shall be 4823
divided among the political subdivisions in such proportions as 4824
the political subdivisions may agree and shall be appointed by the 4825
participating political subdivisions in the same manner as this 4826
section provides for the appointment of members by a political 4827
subdivision creating its own port authority. If a participating 4828
political subdivision is not authorized by section 4582.22 of the 4829
Revised Code to create its own port authority, the political 4830
subdivision's elected legislative body, if the political 4831
subdivision has an elected legislative body, or the political 4832
subdivision's elected official or officials who appoint the 4833
legislative body of the political subdivision shall appoint the 4834

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members of a board of directors of a port authority that are to be 4835
appointed by that political subdivision. If the electors of a 4836
participating political subdivision do not elect either the 4837
legislative body of the political subdivision or the official or 4838
officials who appoint the legislative body of the political 4839
subdivision, the participating political subdivision may not 4840
appoint any member of a board of directors of a port authority. 4841
When a port authority is created by a combination of political 4842
subdivisions, the number of directors comprising the board shall 4843
be determined by agreement between the political subdivisions, 4844
which number may be changed from time to time by amendment of the 4845
agreement. The appointing body may at any time remove a director 4846
appointed by it for misfeasance, nonfeasance, or malfeasance in 4847
office. 4848

A majority of the directors shall have been qualified 4849
electors of, or shall have had their businesses or places of 4850
employment in, one or more political subdivisions within the area 4851
of the jurisdiction of the port authority, for a period of at 4852
least three years next preceding their appointment. 4853

The directors of any port authority first appointed shall 4854
serve staggered terms. Thereafter each successor shall serve for a 4855
term of four years, except that any person appointed to fill a 4856
vacancy shall be appointed to only the unexpired term and any 4857
director is eligible for reappointment. 4858

The board of directors by rule may provide for the removal of 4859
a director who fails to attend three consecutive regular meetings 4860
of the board. If a director is so removed, a successor shall be 4861
appointed for the remaining term of the removed director in the 4862
same manner provided for the original appointment. 4863

The directors shall elect one of their membership as 4864
chairperson and another as vice-chairperson, and shall designate 4865
their terms of office, and shall appoint a secretary who need not 4866

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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 4899
amount of indemnification paid directly from funds to or on behalf 4900
of any director, officer or employee pursuant to this division 4901
shall be one million dollars per occurrence, regardless of the 4902
number of persons who suffer damage, injury, or death as a result 4903
of the occurrence. 4904

(2) A port authority shall not indemnify a director, officer, 4905
or employee under any of the following circumstances: 4906

(a) To the extent the director, officer, or employee is 4907
covered by a policy of insurance for civil liability purchased by 4908
the port authority; 4909

(b) When the director, officer, or employee acts manifestly 4910
outside the scope of his employment or official responsibilities, 4911
with malicious purpose, in bad faith, or in a wanton or reckless 4912
manner; 4913

(c) For any portion of a judgment that represents punitive or 4914
exemplary damages; 4915

(d) For any portion of a consent judgment or settlement that 4916
is unreasonable. 4917

(3) The port authority may purchase a policy or policies of 4918
insurance on behalf of directors, officers, and employees of the 4919
port authority from an insurer or insurers licensed to do business 4920
in this state providing coverage for damages in connection with 4921
any civil action, demand, or claim against the director, officer, 4922
or employee by reason of an act or omission by the director, 4923
officer, or employee occurring in the performance of his duties 4924
and not coming within the terms of division (C)(2)(b) of this 4925
section. 4926

(4) This section does not affect either of the following: 4927

(a) Any defense that would otherwise be available in an 4928

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action alleging personal liability of a director, officer, or 4929
employee; 4930

(b) The operation of section 9.83 of the Revised Code. 4931

Sec. 4909.42. If the proceeding on an application filed with 4932
the public utilities commission under section 4909.18 of the 4933
Revised Code by any public utility requesting an increase on any 4934
rate, joint rate, toll, classification, charge, or rental or 4935
requesting a change in a regulation or practice affecting the same 4936
has not been concluded and an order entered pursuant to section 4937
4909.19 of the Revised Code at the expiration of two hundred 4938
seventy-five days from the date of filing the application, the 4939
proposed increase shall go into effect upon the filing of an 4940
undertaking by the public utility. The undertaking shall be filed 4941
with the commission and shall be payable to the state for the use 4942
and benefit of the customers affected by the proposed increase or 4943
change. 4944

The undertaking must be signed by two of the officers of the 4945
utility, under oath, and must contain a promise to refund any 4946
amounts collected by the utility over the rate, joint rate, toll, 4947
classification, charge, or rental, as determined in the final 4948
order of the commission. All refunds shall include interest at the 4949
rate stated in section 1343.03 of the Revised Code. The refund 4950
shall be in the form of a temporary reduction in rates following 4951
the final order of the commission, and shall be accomplished in 4952
such manner as shall be prescribed by the commission in its final 4953
order. The commission shall exercise continuing and exclusive 4954
jurisdiction over such refunds. 4955

If the public utilities commission has not entered a final 4956
order within five hundred forty-five days from the date of the 4957
filing of an application for an increase in rates under section 4958
4909.18 of the Revised Code, a public utility shall have no 4959

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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.

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.

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.

~~(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,~~ 4991
~~and if the person requesting the defense cooperates in good faith~~ 4992
~~in the defense of the claim or action, the state shall provide and~~ 4993
~~pay for the defense of the claim or action and shall pay any~~ 4994
~~resulting judgment, compromise, or settlement. The state shall not~~ 4995
~~pay that part of a claim or judgment that is for punitive or~~ 4996
~~exemplary damages.~~ 4997

Sec. 5591.36. The board of county commissioners shall erect 4998
and maintain, where not already done, one or more guardrails on 4999
each end of a county bridge, viaduct, or culvert more than five 5000
feet high and on each side of every approach to a county bridge, 5001
viaduct, or culvert, if the approach or embankment is more than 5002
six feet high. The board shall also protect, by suitable 5003
guardrails, all perpendicular wash banks more than eight feet in 5004
height, where such banks have an immediate connection with a 5005
public highway other than state highways, or are adjacent thereto 5006
in an unprotected condition. 5007

It shall be a sufficient compliance with this section, if the 5008
board causes to be erected and maintained a good stockproof hedge 5009
fence where a guardrail is required. Such guardrails or hedge 5010
fences shall be erected in a substantial manner, having sufficient 5011
strength to protect life and property, the expense thereof to be 5012
paid out of the county bridge fund. 5013

Sec. 5591.37. Failure to comply with section 5591.36 of the 5014
Revised Code shall render the county liable for all accidents or 5015
damages as a result of such failure. 5016

Section 2.02. That all the following are repealed: 5017

(A) Existing sections 1701.95, 1707.01, 1901.18, 2101.31, 5018
2305.25, 2305.251, 2305.37, 2307.24, 2307.27, 2307.30, 2307.60, 5019

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2307.61, 2313.46, 2315.07, 2315.08, 2315.18, 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 of the Revised
 Code;

(B) Sections 109.36, 163.17, 723.01, 1343.03, 1775.14,
 1901.041, 1901.17, 1901.181, 1901.20, 1905.032, 2117.06, 2125.01,
 2125.02, 2125.04, 2305.01, 2305.10, 2305.11, 2305.16, 2305.35,
 2305.38, 2307.31, 2307.32, 2307.33, 2307.71, 2307.72, 2307.73,
 2307.75, 2307.78, 2307.80, 2315.01, 2315.18, 2315.19, 2315.20,
 2315.21, 2317.62, 2323.51, 2501.02, 2744.04, 2744.06, 3701.19,
 3722.08, 4112.14, 4112.99, 4113.52, 4171.10, 4399.18, 4909.42,
 5591.36, and 5591.37 of the Revised Code, as they result from
 Section 1 of Am. Sub. H.B. 350 of the 121st General Assembly;

(C) Sections 901.52, 2101.163, 2151.542, 2303.202, 2305.011,
 2305.012, 2305.113, 2305.252, 2305.381, 2305.382, 2307.31,
 2307.42, 2307.43, 2307.48, 2307.791, 2307.792, 2307.80, 2309.01,
 2315.37, 2317.46, 2323.54, and 2323.59 of the Revised Code;

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

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

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

(G) Section 2317.45 of the Revised Code.

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

Sec. 2744.01. As used in this chapter:

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(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

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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.

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

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

(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;

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

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

(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;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(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;

(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;

(i) The enforcement or nonperformance of any law;

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

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nonerection of traffic signs, signals, or control devices; 5109

(k) The collection and disposal of solid wastes, as defined 5110
in section 3734.01 of the Revised Code, including, but not limited 5111
to, the operation of solid waste disposal facilities, as 5112
"facilities" is defined in that section, and the collection and 5113
management of hazardous waste generated by households. As used in 5114
division (C)(2)(k) of this section, "hazardous waste generated by 5115
households" means solid waste originally generated by individual 5116
households that is listed specifically as hazardous waste in or 5117
exhibits one or more characteristics of hazardous waste as defined 5118
by rules adopted under section 3734.12 of the Revised Code, but 5119
that is excluded from regulation as a hazardous waste by those 5120
rules. 5121

(l) The provision or nonprovision, planning or design, 5122
construction, or reconstruction of a public improvement, 5123
including, but not limited to, a sewer system; 5124

(m) The operation of a human services department or agency, 5125
including, but not limited to, the provision of assistance to aged 5126
and infirm persons and to persons who are indigent; 5127

(n) The operation of a health board, department, or agency, 5128
including, but not limited to, any statutorily required or 5129
permissive program for the provision of immunizations or other 5130
inoculations to all or some members of the public, provided that a 5131
"governmental function" does not include the supply, manufacture, 5132
distribution, or development of any drug or vaccine employed in 5133
any such immunization or inoculation program by any supplier, 5134
manufacturer, distributor, or developer of the drug or vaccine; 5135

(o) The operation of mental health facilities, mental 5136
retardation or developmental disabilities facilities, alcohol 5137
treatment and control centers, and children's homes or agencies; 5138

(p) The provision or nonprovision of inspection services of 5139

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all types, including, but not limited to, inspections in 5140
connection with building, zoning, sanitation, fire, plumbing, and 5141
electrical codes, and the taking of actions in connection with 5142
those types of codes, including, but not limited to, the approval 5143
of plans for the construction of buildings or structures and the 5144
issuance or revocation of building permits or stop work orders in 5145
connection with buildings or structures; 5146

(q) Urban renewal projects and the elimination of slum 5147
conditions; 5148

(r) Flood control measures; 5149

(s) The design, construction, reconstruction, renovation, 5150
operation, care, repair, and maintenance of a township cemetery; 5151

(t) The issuance of revenue obligations under section 140.06 5152
of the Revised Code; 5153

(u) The design, construction, reconstruction, renovation, 5154
repair, maintenance, and operation of any park, playground, 5155
playfield, indoor recreational facility, zoo, zoological park, 5156
bath, swimming pool, pond, water park, wading pool, wave pool, 5157
water slide, and other type of aquatic facility, or golf course; 5158

(v) The provision of public defender services by a county or 5159
joint county public defender's office pursuant to Chapter 120. of 5160
the Revised Code; 5161

(w) A function that the general assembly mandates a political 5162
subdivision to perform. 5163

(D) "Law" means any provision of the constitution, statutes, 5164
or rules of the United States or of this state; provisions of 5165
charters, ordinances, resolutions, and rules of political 5166
subdivisions; and written policies adopted by boards of education. 5167
When used in connection with the "common law," this definition 5168
does not apply. 5169

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(E) "Motor vehicle" has the same meaning as in section 5170
4511.01 of the Revised Code. 5171

(F) "Political subdivision" or "subdivision" means a 5172
municipal corporation, township, county, school district, or other 5173
body corporate and politic responsible for governmental activities 5174
in a geographic area smaller than that of the state. "Political 5175
subdivision" includes, but is not limited to, a county hospital 5176
commission appointed under section 339.14 of the Revised Code, 5177
regional planning commission created pursuant to section 713.21 of 5178
the Revised Code, county planning commission created pursuant to 5179
section 713.22 of the Revised Code, joint planning council created 5180
pursuant to section 713.231 of the Revised Code, interstate 5181
regional planning commission created pursuant to section 713.30 of 5182
the Revised Code, port authority created pursuant to section 5183
4582.02 or 4582.26 of the Revised Code or in existence on December 5184
16, 1964, regional council established by political subdivisions 5185
pursuant to Chapter 167. of the Revised Code, emergency planning 5186
district and joint emergency planning district designated under 5187
section 3750.03 of the Revised Code, joint emergency medical 5188
services district created pursuant to section 307.052 of the 5189
Revised Code, fire and ambulance district created pursuant to 5190
section 505.375 of the Revised Code, joint interstate emergency 5191
planning district established by an agreement entered into under 5192
that section, county solid waste management district and joint 5193
solid waste management district established under section 343.01 5194
or 343.012 of the Revised Code, and community school established 5195
under Chapter 3314. of the Revised Code. 5196

(G)(1) "Proprietary function" means a function of a political 5197
subdivision that is specified in division (G)(2) of this section 5198
or that satisfies both of the following: 5199

(a) The function is not one described in division (C)(1)(a) 5200
or (b) of this section and is not one specified in division (C)(2) 5201

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of this section; 5202

(b) The function is one that promotes or preserves the public 5203
peace, health, safety, or welfare and that involves activities 5204
that are customarily engaged in by nongovernmental persons. 5205
5206

(2) A "proprietary function" includes, but is not limited to, 5207
the following: 5208

(a) The operation of a hospital by one or more political 5209
subdivisions; 5210

(b) The design, construction, reconstruction, renovation, 5211
repair, maintenance, and operation of a public cemetery other than 5212
a township cemetery; 5213

(c) The establishment, maintenance, and operation of a 5214
utility, including, but not limited to, a light, gas, power, or 5215
heat plant, a railroad, a busline or other transit company, an 5216
airport, and a municipal corporation water supply system; 5217

(d) The maintenance, destruction, operation, and upkeep of a 5218
sewer system; 5219

(e) The operation and control of a public stadium, 5220
auditorium, civic or social center, exhibition hall, arts and 5221
crafts center, band or orchestra, or off-street parking facility. 5222

~~(H) "Public roads" means public roads, highways, streets,~~ 5223
~~avenues, alleys, and bridges within a political subdivision.~~ 5224
~~"Public roads" does not include berms, shoulders, rights-of-way,~~ 5225
~~or traffic control devices unless the traffic control devices are~~ 5226
~~mandated by the Ohio manual of uniform traffic control devices.~~ 5227

~~(I)~~ "State" means the state of Ohio, including, but not 5228
limited to, the general assembly, the supreme court, the offices 5229
of all elected state officers, and all departments, boards, 5230
offices, commissions, agencies, colleges and universities, 5231

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institutions, and other instrumentalities of the state of Ohio. 5232
"State" does not include political subdivisions. 5233

Sec. 2744.03. (A) In a civil action brought against a 5234
political subdivision or an employee of a political subdivision to 5235
recover damages for injury, death, or loss to persons or property 5236
allegedly caused by any act or omission in connection with a 5237
governmental or proprietary function, the following defenses or 5238
immunities may be asserted to establish nonliability: 5239

(1) The political subdivision is immune from liability if the 5240
employee involved was engaged in the performance of a judicial, 5241
quasi-judicial, prosecutorial, legislative, or quasi-legislative 5242
function. 5243

(2) The political subdivision is immune from liability if the 5244
conduct of the employee involved, other than negligent conduct, 5245
that gave rise to the claim of liability was required by law or 5246
authorized by law, or if the conduct of the employee involved that 5247
gave rise to the claim of liability was necessary or essential to 5248
the exercise of powers of the political subdivision or employee. 5249
5250

(3) The political subdivision is immune from liability if the 5251
action or failure to act by the employee involved that gave rise 5252
to the claim of liability was within the discretion of the 5253
employee with respect to policy-making, planning, or enforcement 5254
powers by virtue of the duties and responsibilities of the office 5255
or position of the employee. 5256

(4) The political subdivision is immune from liability if the 5257
action or failure to act by the political subdivision or employee 5258
involved that gave rise to the claim of liability resulted in 5259
injury or death to a person who had been convicted of or pleaded 5260
guilty to a criminal offense and who, at the time of the injury or 5261
death, was serving any portion of the person's sentence by 5262

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performing community service work for or in the political 5263
subdivision whether pursuant to section 2951.02 of the Revised 5264
Code or otherwise, or resulted in injury or death to a child who 5265
was found to be a delinquent child and who, at the time of the 5266
injury or death, was performing community service or community 5267
work for or in a political subdivision in accordance with the 5268
order of a juvenile court entered pursuant to section 2152.19 or 5269
2152.20 of the Revised Code, and if, at the time of the person's 5270
or child's injury or death, the person or child was covered for 5271
purposes of Chapter 4123. of the Revised Code in connection with 5272
the community service or community work for or in the political 5273
subdivision. 5274

(5) The political subdivision is immune from liability if the 5275
injury, death, or loss to persons or property resulted from the 5276
exercise of judgment or discretion in determining whether to 5277
acquire, or how to use, equipment, supplies, materials, personnel, 5278
facilities, and other resources unless the judgment or discretion 5279
was exercised with malicious purpose, in bad faith, or in a wanton 5280
or reckless manner. 5281

(6) In addition to any immunity or defense referred to in 5282
division (A)(7) of this section and in circumstances not covered 5283
by that division or sections 3314.07 and 3746.24 of the Revised 5284
Code, the employee is immune from liability unless one of the 5285
following applies: 5286

(a) The employee's acts or omissions were manifestly outside 5287
the scope of the employee's employment or official 5288
responsibilities; 5289

(b) The employee's acts or omissions were with malicious 5290
purpose, in bad faith, or in a wanton or reckless manner; 5291

(c) Liability is expressly imposed upon the employee by a 5292
section of the Revised Code. ~~Liability shall not be construed to~~ 5293

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~~exist under another section of the Revised Code merely because~~ 5294
~~that section imposes a responsibility or mandatory duty upon an~~ 5295
~~employee, because of a general authorization in that section that~~ 5296
~~an employee may sue and be sued, or because the section uses the~~ 5297
~~term "shall" in a provision pertaining to an employee.~~ 5298

(7) The political subdivision, and an employee who is a 5299
county prosecuting attorney, city director of law, village 5300
solicitor, or similar chief legal officer of a political 5301
subdivision, an assistant of any such person, or a judge of a 5302
court of this state is entitled to any defense or immunity 5303
available at common law or established by the Revised Code. 5304

(B) Any immunity or defense conferred upon, or referred to in 5305
connection with, an employee by division (A)(6) or (7) of this 5306
section does not affect or limit any liability of a political 5307
subdivision for an act or omission of the employee as provided in 5308
section 2744.02 of the Revised Code. 5309

Section 2.04. That existing sections 2744.01 and 2744.03 of 5310
the Revised Code as scheduled to take effect on January 1, 2002, 5311
are repealed. 5312

Section 2.05. Sections 2.03 and 2.04 of this act take effect 5313
on January 1, 2002. 5314

Section 3. (A) In Section 2.01 of this act: 5315

(1) Sections 1701.95, 1707.01, 2305.25, 2305.251, 2305.37, 5316
2307.60, 2307.61, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 5317
2744.05, 3123.17, 4112.02, 4507.07, 4513.263, 4582.27, and 5111.81 5318
of the Revised Code, which have been amended by acts subsequent to 5319
their amendment by Am. Sub. H.B. 350 of the 121st General 5320
Assembly, are amended to remove matter inserted by, or to revive 5321
matter removed by, Am. Sub. H.B. 350. Amendments made by Am. Sub. 5322

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H.B. 350 or the subsequent acts that are independent of the 5323
purposes of Am. Sub. H.B. 350 are retained. 5324

(2) Section 1901.18 of the Revised Code, as amended 5325
subsequently to Sub. H.B. 350 by Am. Sub. S.B. 1 and Sub. H.B. 302 5326
of the 122nd General Assembly, is amended to ratify a 5327
cross-reference correction made to the section by Am. Sub. H.B. 5328
350. 5329

(3) Sections 109.36, 2117.06, 2125.01, 2125.02, 2125.04, 5330
2305.10, 2305.16, 2305.38, 2307.31, 2307.32, 2307.75, 2307.80, 5331
2315.01, 2315.19, 2315.21, 2501.02, 2744.06, 3722.08, 4112.14, 5332
4113.52, 4171.10, and 4399.18 of the Revised Code are revived and 5333
amended, supersede the versions of the same sections that are 5334
repealed by Section 2.02 of this act, and include amendments that 5335
gender neutralize the language of the sections (as contemplated by 5336
section 1.31 of the Revised Code) and that correct apparent error. 5337

(4) Sections 163.17, 723.01, 1343.03, 1775.14, 2305.01, 5338
2305.11, 2305.35, 2307.33, 2307.71, 2307.72, 2307.73, 2307.78, 5339
2315.18, 2315.20, 2317.62, 2323.51, 2744.04, 4112.99, 4909.42, 5340
5591.36, and 5591.37 of the Revised Code are revived and supersede 5341
the versions of the same sections that are repealed by Section 5342
2.02 of this act. 5343

(5) Notwithstanding its attempted repeal by Am. Sub. H.B. 5344
350, section 2305.27 of the Revised Code is revived and amended to 5345
gender neutralize the language of the section. 5346

(6) Former sections 2307.31 and 2307.80 of the Revised Code, 5347
as they existed prior to being renumbered by Am. Sub. H.B. 350, 5348
are revived and amended as explained in division (A)(2) of this 5349
section. Am. Sub. H.B. 350 renumbered former sections 2307.31 and 5350
2307.80 of the Revised Code and reassigned their numbers to new 5351
sections. Only new sections 2307.31 and 2307.80 of the Revised 5352
Code, as enacted by Section 1 of Am. Sub. H.B. 350, are repealed 5353

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by Section 2.02 of this act. 5354

(7) Section 3123.17 of the Revised Code is amended as 5355
explained in division (A)(1) of this section to remove matter 5356
inserted into former section 3113.219 of the Revised Code by Am. 5357
Sub. H.B. 350. Am. Sub. S.B. 180 of the 123rd General Assembly 5358
amended and renumbered former section 3113.219 of the Revised Code 5359
as section 3123.17 of the Revised Code as part of its general 5360
revision of the child support laws. The amendments of Am. Sub. 5361
S.B. 180 are retained. 5362

(B) The repeal by Section 2.02 of this act of: 5363

(1) Sections 1901.041, 1901.17, 1901.181, 1901.20, 1901.262, 5364
1905.032, and 1907.262 of the Revised Code as they result from Am. 5365
Sub. H.B. 350 is intended to enable the sections to remain in 5366
effect as they result from Am. Sub. H.B. 438 of the 121st General 5367
Assembly, 146 Ohio Laws 4823. 5368

(2) Section 2317.45 of the Revised Code responds to the 5369
section having been held unconstitutional by the Supreme Court of 5370
Ohio's decision in *Sorrell v. Thevenir* (1994), 69 Ohio St.3d 415. 5371

(3) Section 3701.19 of the Revised Code as it results from 5372
Am. Sub. H.B. 350 is intended to enable the section to remain in 5373
effect as it results from Sub. H.B. 670 of the 121st General 5374
Assembly, 146 Ohio Laws 6440. 5375

(C) In Section 2.03 of this act sections 2744.01 and 2744.03 5376
of the Revised Code are amended effective January 1, 2002, to 5377
continue the amendments made to those sections by Section 2.01 of 5378
this act as explained in division (A)(1) of this section. Sections 5379
2744.01 and 2744.03 were amended subsequently to Am. Sub. H.B. 350 5380
by Am. Sub. S.B. 179 of the 123rd General Assembly, effective 5381
January 1, 2002. 5382

Section 4. Because Am. Sub. H.B. 551 of the 123rd General 5383

Assembly takes effect on October 5, 2001: 5384

(A) Section 1707.01 of the Revised Code, which is presented 5385
in this act as it results from Am. Sub. H.B. 551, takes effect as 5386
amended by this act on October 5, 2001. 5387

(B) Divisions (CC), (DD), (EE), (FF), (GG), and (HH) of 5388
section 1707.01 of the Revised Code, which were inserted into the 5389
section by Am. Sub. H.B. 350 of the 121st General Assembly, are 5390
suspended on the effective date of this section, pending section 5391
1707.01 of the Revised Code taking effect as amended by this act 5392
on October 5, 2001. 5393

(C) Sections 1707.432, 1707.433, 1707.434, 1707.435, 5394
1707.436, 1707.437, and 1707.438 of the Revised Code, which were 5395
enacted by Am. Sub. H.B. 350, are suspended on the effective date 5396
of this section, pending their repeal by Am. Sub. H.B. 551 taking 5397
effect on October 5, 2001. 5398

Section 5.01. That Section 3 of Am. Sub. H.B. 438 of the 5399
121st General Assembly, which was amended by Am. Sub. H.B. 350 of 5400
the 121st General Assembly, be amended to read as follows: 5401

"**Sec. 3.** Sections 1 and 2 of Am. Sub. H.B. 438 of the 121st 5402
General Assembly shall take effect on July 1, 1997, ~~except that~~ 5403
~~section 2317.023 of the Revised Code, as amended by Am. Sub. H.B.~~ 5404
~~438 of the 121st General Assembly, shall take effect on the~~ 5405
~~effective date of Am. Sub. H.B. 350 of the 121st General~~ 5406
~~Assembly."~~ 5407

Section 5.02. That existing Section 3 of Am. Sub. H.B. 438 of 5408
the 121st General Assembly is repealed. 5409

Section 5.03. Notwithstanding the attempted amendment of 5410
Section 3 of Am. Sub. H.B. 438 by Am. Sub. H.B. 350 of the 121st 5411

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General Assembly, section 2317.023 of the Revised Code, as enacted 5412
by Am. Sub. H.B. 438 of the 121st General Assembly, took effect on 5413
July 1, 1997. 5414

Section 6. Sections 3, 4, 5, 6, 7, 8, 9, 13, and 16 of Am. 5415
Sub. H.B. 350 of the 121st General Assembly are repealed. 5416

Section 7. In sections contained in this act that have been 5417
amended by acts subsequent to their amendment by Am. Sub. H.B. 350 5418
of the 121st General Assembly (other than section 1901.18 of the 5419
Revised Code), matter removed by Am. Sub. H.B. 350 is revived, and 5420
matter inserted by Am. Sub. H.B. 350 is removed, by amendment 5421
indicated as directed in rule 103-5-01 of the Administrative Code. 5422
But, notwithstanding rule 103-5-01 of the Administrative Code, in 5423
sections contained in this act that have not been amended by acts 5424
subsequent to their amendment by Am. Sub. H.B. 350 of the 121st 5425
General Assembly (1) matter removed by Am. Sub. H.B. 350 is 5426
revived by being reinserted without underlining, so as to indicate 5427
the intention that it is old law that is being revived and (2) 5428
matter inserted by Am. Sub. H.B. 350 is removed by being omitted, 5429
so as to indicate the intention that, by virtue of its 5430
noninclusion, it is being repealed because constitutionally 5431
meaningless. In section 1901.18 of the Revised Code, ratification 5432
of Sub. H.B. 350's cross-reference correction is indicated by 5433
amendment as directed in rule 103-5-01 of the Administrative Code. 5434

Section 8. Section 109.36 of the Revised Code is presented in 5435
this act as a composite of the section as amended by both Sub. 5436
H.B. 715 and Am. Sub. H.B. 571 of the 120th General Assembly. 5437
Section 4112.02 of the Revised Code is presented in this act as a 5438
composite of the section as amended by both Am. H.B. 264 and H.B. 5439
471 of the 123rd General Assembly. The General Assembly, applying 5440
the principle stated in division (B) of section 1.52 of the 5441

Revised Code that amendments are to be harmonized if reasonably 5442
capable of simultaneous operation, finds that the composites are 5443
the resulting version of the sections in effect prior to the 5444
effective date of the sections as presented in this act. 5445

Section 9. This act is an emergency measure necessary for the 5446
immediate preservation of the public peace, health, and safety. 5447
The reason for the necessity is that repeal of the Tort Reform Act 5448
and revival of prior law will clarify the status of law that is 5449
unsettled as a result of the act being held unconstitutional. 5450
Therefore, this act goes into immediate effect. 5451