

**As Reported by the House Ways and Means Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. S. B. No. 180**

**SENATORS** Armbruster, Harris, Fingerhut, Spada, Ryan, Roberts, Amstutz,  
Austria, Blessing, Brady, Carnes, Coughlin, DiDonato, Finan, Randy Gardner,  
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**REPRESENTATIVES** Olman, Widowfield, Niehaus, Carano, Brown, Latta,  
Gilb, DeBose

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**A B I L L**

To amend sections 149.43, 718.01, 718.14, 5703.21, 1  
5733.98, 5747.98, and 6111.31 and to enact sections 2  
150.01, 150.02, 150.03, 150.04, 150.05, 150.06, 3  
150.07, 150.08, 150.09, 150.10, 5709.211, 5725.19, 4  
5729.08, 5733.49, 5747.80, and 6111.311 of the 5  
Revised Code to create the Ohio Venture Capital 6  
Program to provide for the direction of moneys of a 7  
private investment fund into venture capital 8  
investments that are secured by program revenues or 9  
transferable, nonrefundable tax credits; to 10  
prohibit municipal corporations from taxing S 11  
corporation shareholders' distributive shares of 12  
net profits; to require state and county tax 13  
officials to notify local taxing authorities of 14  
pending pollution control tax exemption 15  
applications; and to repeal Section 4 of this act 16  
six months after its effective date. 17

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

**Section 1.** That sections 149.43, 718.01, 718.14, 5703.21, 18  
5733.98, 5747.98, and 6111.31 be amended and sections 150.01, 19  
150.02, 150.03, 150.04, 150.05, 150.06, 150.07, 150.08, 150.09, 20  
150.10, 5709.211, 5725.19, 5729.08, 5733.49, 5747.80, and 6111.311 21  
of the Revised Code be enacted to read as follows: 22

**Sec. 149.43.** (A) As used in this section: 23

(1) "Public record" means records kept by any public office, 24  
including, but not limited to, state, county, city, village, 25  
township, and school district units, and records pertaining to the 26  
delivery of educational services by an alternative school in Ohio 27  
kept by a nonprofit or for profit entity operating such 28  
alternative school pursuant to section 3313.533 of the Revised 29  
Code. "Public record" does not mean any of the following: 30

(a) Medical records; 32

(b) Records pertaining to probation and parole proceedings; 33

(c) Records pertaining to actions under section 2151.85 and 34  
division (C) of section 2919.121 of the Revised Code and to 35  
appeals of actions arising under those sections; 36

(d) Records pertaining to adoption proceedings, including the 37  
contents of an adoption file maintained by the department of 38  
health under section 3705.12 of the Revised Code; 39

(e) Information in a record contained in the putative father 40  
registry established by section 3107.062 of the Revised Code, 41  
regardless of whether the information is held by the department of 42  
job and family services or, pursuant to section 3111.69 of the 43  
Revised Code, the office of child support in the department or a 44  
child support enforcement agency; 45

(f) Records listed in division (A) of section 3107.42 of the 46

Revised Code or specified in division (A) of section 3107.52 of	47
the Revised Code;	48
(g) Trial preparation records;	49
(h) Confidential law enforcement investigatory records;	50
(i) Records containing information that is confidential under	51
section 2317.023 or 4112.05 of the Revised Code;	52
(j) DNA records stored in the DNA database pursuant to	53
section 109.573 of the Revised Code;	54
(k) Inmate records released by the department of	55
rehabilitation and correction to the department of youth services	56
or a court of record pursuant to division (E) of section 5120.21	57
of the Revised Code;	58
(l) Records maintained by the department of youth services	59
pertaining to children in its custody released by the department	60
of youth services to the department of rehabilitation and	61
correction pursuant to section 5139.05 of the Revised Code;	62
(m) Intellectual property records;	63
(n) Donor profile records;	64
(o) Records maintained by the department of job and family	65
services pursuant to section 3121.894 of the Revised Code;	66
(p) Peace officer residential and familial information;	67
(q) In the case of a county hospital operated pursuant to	68
Chapter 339. of the Revised Code, information that constitutes a	69
trade secret, as defined in section 1333.61 of the Revised Code;	70
(r) Information pertaining to the recreational activities of	71
a person under the age of eighteen;	72
(s) Records provided to, statements made by review board	73
members during meetings of, and all work products of a child	74
fatality review board acting under sections 307.621 to 307.629 of	75

the Revised Code, other than the report prepared pursuant to 76  
section 307.626 of the Revised Code; 77

(t) Records provided to and statements made by the executive 78  
director of a public children services agency or a prosecuting 79  
attorney acting pursuant to section 5153.171 of the Revised Code 80  
other than the information released under that section; 81

(u) Test materials, examinations, or evaluation tools used in 82  
an examination for licensure as a nursing home administrator that 83  
the board of examiners of nursing home administrators administers 84  
under section 4751.04 of the Revised Code or contracts under that 85  
section with a private or government entity to administer; 86

(v) Records the release of which is prohibited by state or 88  
federal law; 89

(w) Proprietary information of or relating to any person that 90  
is submitted to or compiled by the Ohio venture capital authority 91  
created under section 150.01 of the Revised Code. 92

(2) "Confidential law enforcement investigatory record" means 93  
any record that pertains to a law enforcement matter of a 94  
criminal, quasi-criminal, civil, or administrative nature, but 95  
only to the extent that the release of the record would create a 96  
high probability of disclosure of any of the following: 97

(a) The identity of a suspect who has not been charged with 98  
the offense to which the record pertains, or of an information 99  
source or witness to whom confidentiality has been reasonably 100  
promised; 101

(b) Information provided by an information source or witness 102  
to whom confidentiality has been reasonably promised, which 103  
information would reasonably tend to disclose the source's or 104  
witness's identity; 105

(c) Specific confidential investigatory techniques or 106  
procedures or specific investigatory work product; 107

(d) Information that would endanger the life or physical 108  
safety of law enforcement personnel, a crime victim, a witness, or 109  
a confidential information source. 110

(3) "Medical record" means any document or combination of 111  
documents, except births, deaths, and the fact of admission to or 112  
discharge from a hospital, that pertains to the medical history, 113  
diagnosis, prognosis, or medical condition of a patient and that 114  
is generated and maintained in the process of medical treatment. 115

(4) "Trial preparation record" means any record that contains 116  
information that is specifically compiled in reasonable 117  
anticipation of, or in defense of, a civil or criminal action or 118  
proceeding, including the independent thought processes and 119  
personal trial preparation of an attorney. 120

(5) "Intellectual property record" means a record, other than 121  
a financial or administrative record, that is produced or 122  
collected by or for faculty or staff of a state institution of 123  
higher learning in the conduct of or as a result of study or 124  
research on an educational, commercial, scientific, artistic, 125  
technical, or scholarly issue, regardless of whether the study or 126  
research was sponsored by the institution alone or in conjunction 127  
with a governmental body or private concern, and that has not been 128  
publicly released, published, or patented. 129

(6) "Donor profile record" means all records about donors or 130  
potential donors to a public institution of higher education 131  
except the names and reported addresses of the actual donors and 132  
the date, amount, and conditions of the actual donation. 133

(7) "Peace officer residential and familial information" 134  
means either of the following: 135

(a) Any information maintained in a personnel record of a 136

peace officer that discloses any of the following: 137

(i) The address of the actual personal residence of a peace officer, except for the state or political subdivision in which the peace officer resides; 138  
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(ii) Information compiled from referral to or participation in an employee assistance program; 141  
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(iii) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer; 143  
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(iv) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer by the peace officer's employer; 147  
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(v) The identity and amount of any charitable or employment benefit deduction made by the peace officer's employer from the peace officer's compensation unless the amount of the deduction is required by state or federal law; 150  
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(vi) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer. 154  
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(b) Any record that identifies a person's occupation as a peace officer other than statements required to include the disclosure of that fact under the campaign finance law. 160  
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As used in divisions (A)(7) and (B)(5) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a 163  
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county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.

(2) If any person chooses to obtain a copy of a public record 198  
in accordance with division (B)(1) of this section, the public 199  
office or person responsible for the public record shall permit 200  
that person to choose to have the public record duplicated upon 201  
paper, upon the same medium upon which the public office or person 202  
responsible for the public record keeps it, or upon any other 203  
medium upon which the public office or person responsible for the 204  
public record determines that it reasonably can be duplicated as 205  
an integral part of the normal operations of the public office or 206  
person responsible for the public record. When the person seeking 207  
the copy makes a choice under this division, the public office or 208  
person responsible for the public record shall provide a copy of 209  
it in accordance with the choice made by the person seeking the 210  
copy. 211

(3) Upon a request made in accordance with division (B)(1) of 212  
this section, a public office or person responsible for public 213  
records shall transmit a copy of a public record to any person by 214  
United States mail within a reasonable period of time after 215  
receiving the request for the copy. The public office or person 216  
responsible for the public record may require the person making 217  
the request to pay in advance the cost of postage and other 218  
supplies used in the mailing. 219

Any public office may adopt a policy and procedures that it 220  
will follow in transmitting, within a reasonable period of time 221  
after receiving a request, copies of public records by United 222  
States mail pursuant to this division. A public office that adopts 223  
a policy and procedures under this division shall comply with them 224  
in performing its duties under this division. 225

In any policy and procedures adopted under this division, a 226  
public office may limit the number of records requested by a 227  
person that the office will transmit by United States mail to ten 228  
per month, unless the person certifies to the office in writing 229



that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(4) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(5) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer shall disclose to the journalist the address of the actual personal residence of the peace officer and, if the peace officer's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the

public interest.

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As used in division (B)(5) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

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(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

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(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

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(E)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number

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of bulk commercial special extraction requests made by a person 294  
for the same records or for updated records during a calendar 295  
year. The rules may include provisions for charges to be made for 296  
bulk commercial special extraction requests for the actual cost of 297  
the bureau, plus special extraction costs, plus ten per cent. The 298  
bureau may charge for expenses for redacting information, the 299  
release of which is prohibited by law. 300

(2) As used in divisions (B)(3) and (E)(1) of this section: 301

(a) "Actual cost" means the cost of depleted supplies, 302  
records storage media costs, actual mailing and alternative 303  
delivery costs, or other transmitting costs, and any direct 304  
equipment operating and maintenance costs, including actual costs 305  
paid to private contractors for copying services. 306

(b) "Bulk commercial special extraction request" means a 307  
request for copies of a record for information in a format other 308  
than the format already available, or information that cannot be 309  
extracted without examination of all items in a records series, 310  
class of records, or data base by a person who intends to use or 311  
forward the copies for surveys, marketing, solicitation, or resale 312  
for commercial purposes. "Bulk commercial special extraction 313  
request" does not include a request by a person who gives 314  
assurance to the bureau that the person making the request does 315  
not intend to use or forward the requested copies for surveys, 316  
marketing, solicitation, or resale for commercial purposes. 317

(c) "Commercial" means profit-seeking production, buying, or 318  
selling of any good, service, or other product. 319

(d) "Special extraction costs" means the cost of the time 320  
spent by the lowest paid employee competent to perform the task, 321  
the actual amount paid to outside private contractors employed by 322  
the bureau, or the actual cost incurred to create computer 323  
programs to make the special extraction. "Special extraction 324

costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (E)(1) and (2) of this section, "commercial surveys, marketing, solicitation, or resale" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

**Sec. 150.01.** (A) As used in this chapter:

(1) "Authority" means the Ohio venture capital authority created under section 150.02 of the Revised Code.

(2) "Lender" means any person that lends money to the program fund as provided in this chapter.

(3) "Loss" means a loss incurred with respect to a lender's loan to the program fund. Such a loss is incurred only if and to the extent a program administrator fails to satisfy its obligations to the lender to make timely payments of principal or interest as provided in the loan agreement between the lender and the program administrator. "Loss" does not include either of the following:

(a) Any loss incurred by the program fund, including a loss attributable to any investment made by a program administrator;

(b) Any loss of the capital required to be provided by a program administrator, or income accruing to that capital, under the agreement entered into under division (B) of section 150.05 of the Revised Code.

(4) "Ohio-based business enterprise" means a person that is engaged in business, that employs at least one individual on a full-time or part-time basis at a place of business in this state, including a person engaged in business if that person is a

self-employed individual, and that is in the seed or early stage 355  
of business development requiring initial funding or is an 356  
established business enterprise developing new methods or 357  
technologies. 358

(5) "Ohio-based venture capital fund" means a venture capital 359  
fund having its principal office in this state, where the majority 360  
of the fund's staff are employed and where at least one investment 361  
professional is employed who has at least five years of experience 362  
in venture capital investment. 363

(6) "Program fund" means the fund created under section 364  
150.03 of the Revised Code. 365

(B) The general assembly declares that its purpose in 366  
enacting Chapter 150. of the Revised Code is to increase the 367  
amount of private investment capital available in this state for 368  
enterprises in the seed or early stages of business development 369  
and requiring initial funding, as well as established business 370  
enterprises developing new methods or technologies, thereby 371  
increasing employment, creating additional wealth, and otherwise 372  
benefiting the economic welfare of the people of this state. 373  
Accordingly, it is the intention of the general assembly that the 374  
Ohio venture capital authority focus its investment policy 375  
principally on venture capital funds investing in such 376  
enterprises. 377

**Sec. 150.02.** (A) There is hereby created the Ohio venture 378  
capital authority, which shall exercise the powers and perform the 379  
duties prescribed by this chapter. The exercise by the authority 380  
of its powers and duties is hereby declared to be an essential 381  
state governmental function. The authority is subject to all laws 382  
generally applicable to state agencies and public officials, 383  
including, but not limited to, Chapter 119. and sections 121.22 384  
and 149.43 of the Revised Code, to the extent those laws do not 385

conflict with this chapter.

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(B) The authority shall consist of nine members. Seven of the  
members shall be appointed by the governor, with the advice and  
consent of the senate, from among the general public. All  
appointed members shall have experience in the field of banking,  
investments, commercial law, or industry relevant to the purpose  
of the Ohio venture capital program as stated in section 150.01 of  
the Revised Code. The director of development and tax commissioner  
or their designees shall be ex officio, nonvoting members.

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Initial gubernatorial appointees to the authority shall serve  
staggered terms, with one term expiring on January 31, 2004, two  
terms expiring on January 31, 2005, two terms expiring on January  
31, 2006, and two terms expiring on January 31, 2007. Thereafter,  
terms of office for all appointees shall be for four years, with  
each term ending on the same day of the same month as did the term  
that it succeeds. A vacancy on the authority shall be filled in  
the same manner as the original appointment, except that a person  
appointed to fill a vacancy shall be appointed to the remainder of  
the unexpired term. Any appointed member of the authority is  
eligible for reappointment.

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A member of the authority may be removed by the member's  
appointing authority for misfeasance, malfeasance, willful neglect  
of duty, or other cause, after notice and a public hearing, unless  
the notice and hearing are waived in writing by the member.

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(C) Members of the authority shall serve without  
compensation, but shall receive their reasonable and necessary  
expenses incurred in the conduct of authority business. The  
governor shall designate a member of the authority to serve as  
chairperson. A majority of the voting members of the authority

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constitutes a quorum, and the affirmative vote of a majority of  
the voting members present is necessary for any action taken by  
the authority. A vacancy in the voting membership of the authority  
does not impair the right of a quorum to exercise all rights and  
perform all duties of the authority.

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(D) The department of development shall provide the authority  
with office space and such technical assistance as the authority  
requires.

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**Sec. 150.03.** Within ninety days after the effective date of  
this section, the authority shall establish, and subsequently may  
modify as it considers necessary, a written investment policy  
governing the investment of money from the program fund, which is  
hereby created. The program fund shall consist of the proceeds of  
loans acquired by a program administrator. The authority is  
subject to Chapter 119. of the Revised Code with respect to the  
establishment or modification of the policy. The policy shall meet  
all the following requirements:

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(A) It is consistent with the purpose of the program stated  
in section 150.01 of the Revised Code.

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(B) Subject to divisions (C) and (D) of this section, it  
permits the investment of money from the program fund in private,  
for-profit venture capital funds, including funds of funds, that  
invest in enterprises in the seed or early stage of business  
development or established business enterprises developing new  
methods or technologies, and that demonstrate potential to  
generate high levels of successful investment performance.

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(C) It specifies that a program administrator or fund manager  
employed by the program administrator shall invest not less than  
seventy-five per cent of program fund money under its investment  
authority in Ohio-based venture capital funds.

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(D) It specifies that a program administrator or fund manager employed by the program administrator shall not invest money from the program fund in a venture capital fund to the extent that the total amount of program fund money invested in the venture capital fund or any other venture capital fund under common management exceeds the lesser of the following:

(1) Ten million dollars;

(2)(a) In the case of an Ohio-based venture capital fund, fifty per cent of the total amount of capital committed to the fund from all sources, after accounting for capital committed from the program fund;

(b) In the case of any other venture capital fund, twenty per cent of the total amount of capital committed to the fund from all sources, after accounting for capital committed from the program fund.

(E) It specifies that a program administrator or fund manager employed by the program administrator shall not commit capital from the program fund to a venture capital fund until the venture capital fund receives commitment of at least the same amount from other investors in the fund.

(F) It specifies the general conditions a private, for-profit investment fund must meet to be selected as a program administrator under section 150.05 of the Revised Code, including, as a significant selection standard, direct experience managing external or nonproprietary capital in private equity fund of funds formats.

(G) It specifies the criteria the authority must consider when making a determination under division (B)(1) of section 150.04 of the Revised Code.

(H) It includes investment standards and general limitations on allowable investments that the authority considers reasonable



and necessary to achieve the purposes of this chapter as stated in 478  
division (B) of section 150.01 of the Revised Code, minimize the 479  
need for the authority to grant tax credits under section 150.07 480  
of the Revised Code, ensure compliance of the program 481  
administrators with all applicable laws of this state and the 482  
United States, and ensure the safety and soundness of investments 483  
of money from the program fund. 484

(I) It prohibits the investment of money from the program 485  
fund directly in persons other than venture capital funds, except 486  
for temporary investment in investment grade debt securities or 487  
temporary deposit in interest-bearing accounts or funds pending 488  
permanent investment in venture capital funds. 489

(J) It encourages the investment of program fund money in 490  
venture capital funds that invest their capital primarily in 491  
Ohio-based business enterprises. 492

**Sec. 150.04.** (A) The investment policy established or 493  
modified under section 150.03 of the Revised Code shall specify 494  
the terms and conditions under which the authority may grant tax 495  
credits under section 150.07 of the Revised Code, subject to that 496  
section and division (B) of this section, to provide security 497  
against lenders' losses. 498

(B) Nothing in this chapter authorizes the providing of 499  
security against losses on any bases other than the following: 500

(1) The application first of moneys of the Ohio venture 501  
capital fund, created under section 150.08 of the Revised Code, 502  
that the authority, under the criteria in its investment policy, 503  
determines may be expended without adversely affecting the ability 504  
of the authority to continue fulfilling the purpose of this 505  
chapter as stated in section 150.01 of the Revised Code; and then 506

(2) The granting of tax credits pursuant to section 150.07 of 507

the Revised Code, but only to the extent moneys under division 508  
(B)(1) of this section are insufficient. 509

Sec. 150.05. (A) The authority shall select, as program 510  
administrators, not more than two private, for-profit investment 511  
funds to acquire loans for the program fund and to invest money in 512  
the program fund as prescribed in the investment policy 513  
established or modified by the authority in accordance with 514  
sections 150.03 and 150.04 of the Revised Code. To be eligible for 515  
selection, an investment fund must be incorporated or organized 516  
under Chapter 1701., 1705., 1775., 1782., or 1783. of the Revised 517  
Code, must have an established business presence in this state, 518  
and must be capitalized in accordance with any state and federal 519  
laws applicable to the issuance or sale of securities. 520

The authority shall select program administrators only after 521  
soliciting and evaluating requests for proposals as prescribed in 522  
this section. The authority shall publish a notice of a request 523  
for proposals in newspapers of general circulation in this state 524  
once each week for two consecutive weeks before a date specified 525  
by the authority as the date on which it will begin accepting 526  
proposals. The notices shall contain a general description of the 527  
subject of the proposed agreement and the location where the 528  
request for proposals may be obtained. The request for proposals 529  
shall include all the following: 530

(1) Instructions and information to respondents concerning 531  
the submission of proposals, including the name and address of the 532  
office where proposals are to be submitted; 533

(2) Instructions regarding the manner in which respondents 534  
may communicate with the authority, including the names, titles, 535  
and telephone numbers of the individuals to whom such 536  
communications shall be directed; 537

(3) Description of the performance criteria that will be used 538

to evaluate whether a respondent selected by the authority is 539  
satisfying the authority's investment policy; 540

(4) Description of the factors and criteria to be considered 541  
in evaluating respondents' proposals, the relative importance of 542  
each factor or criterion, and description of the authority's 543  
evaluation procedure; 544

(5) Description of any documents that may be incorporated by 545  
reference into the request for proposals, provided that the 546  
request specifies where such documents may be obtained and such 547  
documents are readily available to all interested parties. 548

After the date specified for receiving proposals, the 549  
authority shall evaluate submitted proposals. The authority may 550  
discuss a respondent's proposal with that respondent to clarify or 551  
revise a proposal or the terms of the agreement. 552

The authority shall choose for review proposals from at least 553  
three respondents the authority considers qualified to operate the 554  
program in the best interests of the investment policy adopted by 555  
the authority. If three or fewer proposals are submitted, the 556  
authority shall review each proposal. The authority may cancel a 557  
request for proposals at any time before entering into an 558  
agreement with a respondent. The authority shall provide 559  
respondents fair and equal opportunity for such discussions. The 560  
authority may terminate discussions with any respondent upon 561  
written notice to the respondent. 562

(B) After reviewing the chosen proposals, the authority may 563  
select not more than two such respondents and enter into a written 564  
agreement with each of the selected respondents, provided that at 565  
no time shall there be agreements with more than two persons. 566

The agreement shall do all of the following: 567

(1) Specify that borrowing and investing by the program 568  
administrator will be budgeted to guarantee that no tax credits 569

will be granted during the first four years of the Ohio venture capital program; 570  
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(2) Require investment by the program administrator or the fund manager employed by the program administrator to be in compliance with the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code that is in effect at the time the investment is made, and prohibit the program administrator or fund manager from engaging in any investment activities other than activities to carry out that policy; 572  
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(3) Require periodic financial reporting by the program administrator to the authority, which reporting shall include an annual audit by an independent auditor and such other financial reporting as is specified in the agreement or otherwise required by the authority for the purpose of ensuring that the program administrator is carrying out the investment policy; 580  
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(4) Specify any like standards or general limitations in addition to or in furtherance of investment standards or limitations that apply pursuant to division (H) of section 150.03 of the Revised Code; 586  
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(5) Require payment to the authority by the program administrator of a percentage, not less than ninety per cent, of the amount by which program fund revenues exceed the total of the amounts required to make payments of principal or interest to lenders and to cover the program administrator's pro rata share of such excess, as required under division (B)(9) of this section; 590  
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(6) Specify the procedures by which the program administrator shall certify immediately to the authority the necessity for the authority to issue tax credit certificates pursuant to contracts entered into under section 150.07 of the Revised Code; 596  
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(7) Specify any general limitations regarding the employment 600

of a fund manager by the program administrator, in addition to an  
express limitation that the fund manager be a person with  
demonstrated, substantial, successful experience in the design and  
management of seed and venture capital investment programs and in  
capital formation. The fund manager may be, but need not be, an  
equity owner or affiliate of the program administrator.

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(8) Specify the terms and conditions under which the  
authority or the program administrator may terminate the  
agreement, including in the circumstance that the program  
administrator or fund manager violates the investment policy, or  
under which the authority may cease granting additional tax  
credits under this chapter;

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(9) Require the program administrator to provide capital to  
the program fund equal to at least one per cent of the amount of  
outstanding loans by lenders to the program fund at any time. Such  
capital shall be placed at the same risk as the proceeds from such  
loans. The program administrator shall receive a pro rata share of  
the net income, including net loss, from the investment of money  
from the program fund, but is not entitled to the security against  
losses provided under section 150.04 of the Revised Code.

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**Sec. 150.06.** (A) The authority is not an agency as defined in  
section 101.82 of the Revised Code for purposes of divisions (A)  
and (B) of section 101.83 of the Revised Code.

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(B) The selection of a program administrator and the entering  
into an agreement under section 150.05 of the Revised Code do not  
constitute a purchase of services under Chapter 125. of the  
Revised Code.

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(C) Notwithstanding section 121.22 of the Revised Code, the  
authority may hold an executive session for either of the  
following purposes, but only after a majority of a quorum of the  
authority determines, by a roll call vote, to hold the session,

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and only at a regular or special meeting:

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(1) Presenting, reviewing, or discussing proprietary information relating to any person unless that person has consented in writing to disclosure of such information by the authority;

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(2) Preparing for, conducting, or reviewing negotiating sessions with any private, for-profit investment fund for the purpose of selecting a program administrator and entering into an agreement under section 150.05 of the Revised Code.

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**Sec. 150.07.** (A) For the purpose stated in section 150.01 of the Revised Code, the authority may authorize a lender to claim one of the nonrefundable tax credits allowed under section 5725.19, 5729.08, 5733.49, or 5747.80 of the Revised Code. The credits shall be authorized by a written contract with the lender. The contract shall specify the terms under which the lender may claim the credit, including the amount of loss, if any, the lender must incur before the lender may claim the credit; specify that the credit shall not exceed the amount of the loss; and specify that the lender may claim the credit only for a loss certified by a program administrator to the authority under the procedures prescribed under division (B)(6) of section 150.05 of the Revised Code.

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(B) Tax credits may be authorized at any time after the authority establishes the investment policy under section 150.03 of the Revised Code, but a tax credit so authorized may not be claimed until the beginning of the fifth year after the authority establishes the investment policy. A tax credit may not be claimed after June 30, 2026.

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(C)(1) Upon receiving certification of a lender's loss from a program administrator pursuant to the procedures in the investment policy, the authority shall issue a tax credit certificate to the

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lender, except as otherwise provided in division (C)(2) of this  
section. The certificate shall state the amount of the credit and  
the calendar year, under section 5725.19 or 5729.08, the tax year,  
under section 5733.49, or the taxable year under section 5747.80  
of the Revised Code, for which the credit may be claimed. The  
authority, in conjunction with the tax commissioner, shall develop  
a system for issuing tax credit certificates for the purpose of  
verifying that any credit claimed is a credit issued under this  
section and is properly taken in the year specified in the  
certificate and in compliance with division (B) of this section.

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(2) The authority shall not, in any fiscal year, issue tax  
credit certificates in a total amount exceeding twenty million  
dollars. When a loss is certified to the authority in such an  
amount that the total of the certified losses in the fiscal year  
exceeds twenty million dollars, the authority shall notify the  
lender and advise the lender that the lender may defer receipt of  
a tax credit certificate for the loss until the following fiscal  
year. Within the time and in a manner that may be prescribed by  
the authority, the lender shall confirm its receipt of such  
notice. Each fiscal year, the authority shall issue tax credit  
certificates to lenders that have deferred receipt of a  
certificate under this division, in the order in which the  
lenders' losses were certified to the authority, before issuing  
tax credit certificates for losses certified in the current fiscal  
year. The authority shall not issue a tax credit certificate for  
any loss that was certified in a fiscal year ending more than five  
years before the end of the current fiscal year. The authority  
shall maintain a record of all certified losses with respect to  
which issuance of tax credit certificates is deferred under this  
division.

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(D) Upon issuance of a tax credit certificate under division

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(C) of this section, a lender may transfer the certificate to any other person that is, for the year for which the credit may be claimed, subject to any of the taxes against which the credit may be claimed. A transfer of a tax credit certificate transfers to the transferee all of the lender's rights, interests, duties, and obligations with respect to the certificate. Such transfers shall be governed by rules adopted by the authority pursuant to Chapter 119. of the Revised Code. The rules shall be adopted only after the authority obtains the consent of the tax commissioner to the proposed rules.

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Sec. 150.08. (A) There is hereby created in the state treasury the Ohio venture capital fund, to which shall be credited all payments received by the authority pursuant to division (B)(5) of section 150.05 of the Revised Code and all interest earned on moneys of the fund.

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(B) Except as provided in division (C) of this section, money in the Ohio venture capital fund shall be used exclusively to provide security against losses as authorized under this chapter.

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(C) If the amount in the venture capital fund exceeds the amount reasonably necessary to provide security against such losses, the excess may be used, upon appropriation by the general assembly, to provide scholarships or other financial assistance to students enrolled in a course of study in the fields of physical or natural sciences, mathematics, or engineering at an institution of higher education in this state.

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Sec. 150.09. The state, the governor, or a member of the authority is not liable in damages to any person in a civil action for any loss incurred as a result of any investment made by a program administrator or fund manager employed by the program administrator.

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Sec. 150.10. (A) On the first day of January of the second 725  
year after the date of entering into an agreement under section 726  
150.05 of the Revised Code and of each ensuing year, the authority 727  
shall file with the clerk of the house of representatives, the 728  
clerk of the senate, and the chairpersons of the house and senate 729  
standing committees predominantly concerned with economic 730  
development a written report on the Ohio venture capital program. 731  
The report shall include all the following: 732

(1) A description of the details of the investment policy 733  
established or modified in accordance with sections 150.03 and 734  
150.04 of the Revised Code; 735

(2) The authority's assessment of the program's achievement 736  
of its purpose stated in section 150.01 of the Revised Code; 737

(3) The value of tax credit certificates issued by the 738  
authority under section 150.07 of the Revised Code in each fiscal 739  
year ending on or before the preceding thirtieth day of June; 740

(4) The amount of tax credits claimed pursuant to section 741  
5725.19, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to 742  
the respective taxes involved; 743

(5) The financial status of the Ohio venture capital fund; 744

(6) The names of venture capital funds in which money from 745  
the program fund has been invested and the locations of their 746  
principal offices, and the names of the enterprises in which each 747  
of those venture capital funds has invested such money and the 748  
locations of those enterprises' principal offices; 749

(7) Any recommendations for modifying the program to better 750  
achieve the purpose stated in section 150.01 of the Revised Code. 751

(B) During each year that a report is issued under division 752  
(A) of this section, the chairperson of the authority, or another 753  
member of the authority designated by the chairperson as the 754

authority's representative, shall be required to appear in person 755  
before the standing committees of the house and senate 756  
predominantly concerned with economic development to give 757  
testimony concerning the status of the Ohio venture capital 758  
program. 759

**Sec. 718.01.** (A) As used in this chapter: 760

(1) "Internal Revenue Code" means the Internal Revenue Code 761  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 762

(2) "Schedule C" means internal revenue service schedule C 763  
filed by a taxpayer pursuant to the Internal Revenue Code. 764

(3) "Form 2106" means internal revenue service form 2106 765  
filed by a taxpayer pursuant to the Internal Revenue Code. 766

(4) "Intangible income" means income of any of the following 767  
types: income yield, interest, dividends, or other income arising 768  
from the ownership, sale, exchange, or other disposition of 769  
intangible property including, but not limited to, investments, 770  
deposits, money, or credits as those terms are defined in Chapter 771  
5701. of the Revised Code. 772

(5) "S corporation" means a corporation that has made an 773  
election under subchapter S of Chapter 1 of Subtitle A of the 774  
Internal Revenue Code for its taxable year. 775

(B) No municipal corporation with respect to that income that 776  
it may tax shall tax such income at other than a uniform rate. 777  
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(C) No municipal corporation shall levy a tax on income at a 779  
rate in excess of one per cent without having obtained the 780  
approval of the excess by a majority of the electors of the 781  
municipality voting on the question at a general, primary, or 782  
special election. The legislative authority of the municipal 783  
corporation shall file with the board of elections at least 784

seventy-five days before the day of the election a copy of the  
ordinance together with a resolution specifying the date the  
election is to be held and directing the board of elections to  
conduct the election. The ballot shall be in the following form:  
"Shall the Ordinance providing for a ... per cent levy on income  
for (Brief description of the purpose of the proposed levy) be  
passed?

FOR THE INCOME TAX 792

AGAINST THE INCOME TAX" 793

In the event of an affirmative vote, the proceeds of the levy  
may be used only for the specified purpose. 794 795

(D)(1) Except as otherwise provided in division (D)(2) or  
(F)(9) of this section, no municipal corporation shall exempt from  
a tax on income, compensation for personal services of individuals  
over eighteen years of age or the net profit from a business or  
profession. 796 797 798 799 800

(2) The legislative authority of a municipal corporation may,  
by ordinance or resolution, exempt from a tax on income any  
compensation arising from the grant, sale, exchange, or other  
disposition of a stock option; the exercise of a stock option; or  
the sale, exchange, or other disposition of stock purchased under  
a stock option. 801 802 803 804 805 806

(E) Nothing in this section shall prevent a municipal  
corporation from permitting lawful deductions as prescribed by  
ordinance. If a taxpayer's taxable income includes income against  
which the taxpayer has taken a deduction for federal income tax  
purposes as reportable on the taxpayer's form 2106, and against  
which a like deduction has not been allowed by the municipal  
corporation, the municipal corporation shall deduct from the  
taxpayer's taxable income an amount equal to the deduction shown  
on such form allowable against such income, to the extent not  
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otherwise so allowed as a deduction by the municipal corporation. 816  
In the case of a taxpayer who has a net profit from a business or 817  
profession that is operated as a sole proprietorship, no municipal 818  
corporation may tax or use as the base for determining the amount 819  
of the net profit that shall be considered as having a taxable 820  
situs in the municipal corporation, a greater amount than the net 821  
profit reported by the taxpayer on schedule C filed in reference 822  
to the year in question as taxable income from such sole 823  
proprietorship, except as otherwise specifically provided by 824  
ordinance or regulation. 825

(F) A municipal corporation shall not tax any of the 826  
following: 827

(1) The military pay or allowances of members of the armed 828  
forces of the United States and of members of their reserve 829  
components, including the Ohio national guard; 830

(2) The income of religious, fraternal, charitable, 831  
scientific, literary, or educational institutions to the extent 832  
that such income is derived from tax-exempt real estate, 833  
tax-exempt tangible or intangible property, or tax-exempt 834  
activities; 835

(3) Except as otherwise provided in division (G) of this 836  
section, intangible income; 837

(4) Compensation paid under section 3501.28 or 3501.36 of the 838  
Revised Code to a person serving as a precinct election official, 839  
to the extent that such compensation does not exceed one thousand 840  
dollars annually. Such compensation in excess of one thousand 841  
dollars may be subjected to taxation by a municipal corporation. A 842  
municipal corporation shall not require the payer of such 843  
compensation to withhold any tax from that compensation. 844

(5) Compensation paid to an employee of a transit authority, 845  
regional transit authority, or regional transit commission created 846

under Chapter 306. of the Revised Code for operating a transit bus 847  
or other motor vehicle for the authority or commission in or 848  
through the municipal corporation, unless the bus or vehicle is 849  
operated on a regularly scheduled route, the operator is subject 850  
to such a tax by reason of residence or domicile in the municipal 851  
corporation, or the headquarters of the authority or commission is 852  
located within the municipal corporation; 853

(6) The income of a public utility when that public utility 854  
is subject to the tax levied under section 5727.24 or 5727.30 of 855  
the Revised Code, except starting January 1, 2002, the income of 856  
an electric company or combined company, as defined in section 857  
5727.01 of the Revised Code, may be taxed by a municipal 858  
corporation, subject to Chapter 5745. of the Revised Code. 859

(7) On and after January 1, 2003, items excluded from federal 860  
gross income pursuant to section 107 of the Internal Revenue Code; 861  
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(8) On and after January 1, 2001, compensation paid to a 863  
nonresident individual to the extent prohibited under section 864  
718.011 of the Revised Code; 865

(9) An S corporation shareholder's distributive share of net 866  
profits of the S corporation, except to the extent such 867  
distributive share of net profits represents income earned for 868  
services performed by the shareholder for the S corporation. 869

(G) Any municipal corporation that taxes any type of 870  
intangible income on March 29, 1988, pursuant to Section 3 of 871  
Amended Substitute Senate Bill No. 238 of the 116th general 872  
assembly, may continue to tax that type of income after 1988 if a 873  
majority of the electors of the municipal corporation voting on 874  
the question of whether to permit the taxation of that type of 875  
intangible income after 1988 vote in favor thereof at an election 876  
held on November 8, 1988. 877

(H) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

**Sec. 718.14.** (A) As used in this section:

(1) ~~"S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.~~

~~(2)~~ "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

~~(3)~~(2) "Pass-through entity" means a partnership, ~~S corporation,~~ limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code, excluding an S corporation.

~~(4)~~(3) "Income from a pass-through entity" means partnership income of partners, ~~distributive shares of shareholders of an S corporation,~~ membership interests of members of a limited liability company, or other distributive or proportionate ~~ownership~~ shares of income from other pass-through entities.

~~(5)~~(4) "Owner" means a partner of a partnership, ~~a shareholder of an S corporation,~~ a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

~~(6)~~(5) "Owner's proportionate share," with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by

the municipal corporation, to (b) the total income from that 908  
entity of all owners whose income from the entity is subject to 909  
taxation by that municipal corporation. 910

(B) On and after January 1, 2003, any municipal corporation 911  
imposing a tax that applies to income from a pass-through entity 912  
shall grant a credit to each owner who is domiciled in the 913  
municipal corporation for taxes paid to another municipal 914  
corporation by a pass-through entity that does not conduct 915  
business in the municipal corporation. The amount of the credit 916  
shall equal the lesser of the following amounts, subject to 917  
division (C) of this section: 918

(1) The owner's proportionate share of the amount, if any, of 919  
tax paid by the pass-through entity to another municipal 920  
corporation in this state; 921

(2) The owner's proportionate share of the amount of tax that 922  
would be imposed on the pass-through entity by the municipal 923  
corporation in which the taxpayer is domiciled if the pass-through 924  
entity conducted business in the municipal corporation. 925

(C) If a municipal corporation grants a credit for a 926  
percentage, less than one hundred per cent, of the amount of 927  
income taxes paid on compensation by an individual who resides or 928  
is domiciled in the municipal corporation to another municipal 929  
corporation, the amount of credit otherwise required by division 930  
(B) of this section shall be multiplied by that percentage. 931

(D) On and after January 1, 2003, any municipal corporation 932  
that imposes a tax on income of or from a pass-through entity 933  
shall specify by ordinance or rule whether the tax applies to 934  
income of the pass-through entity in the hands of the entity or to 935  
income from the pass-through entity in the hands of the owners of 936  
the entity. A municipal corporation may specify a different 937  
ordinance or rule under this division for each of the classes of 938  
pass-through entity enumerated in division (A)~~(3)~~(2) of this 939

section. 940

**Sec. 5703.21.** (A) Except as provided in divisions (B) and (C) 941  
of this section, no agent of the department of taxation, except in 942  
the agent's report to the department or when called on to testify 943  
in any court or proceeding, shall divulge any information acquired 944  
by the agent as to the transactions, property, or business of any 945  
person while acting or claiming to act under orders of the 946  
department. Whoever violates this provision shall thereafter be 947  
disqualified from acting as an officer or employee or in any other 948  
capacity under appointment or employment of the department. 949

(B)(1) For purposes of an audit pursuant to section 117.15 of 951  
the Revised Code, or an audit of the department pursuant to 952  
Chapter 117. of the Revised Code, or an audit, pursuant to that 953  
chapter, the objective of which is to express an opinion on a 954  
financial report or statement prepared or issued pursuant to 955  
division (A)(7) or (9) of section 126.21 of the Revised Code, the 956  
officers and employees of the auditor of state charged with 957  
conducting the audit shall have access to and the right to examine 958  
any state tax returns and state tax return information in the 959  
possession of the department to the extent that the access and 960  
examination are necessary for purposes of the audit. Any 961  
information acquired as the result of that access and examination 962  
shall not be divulged for any purpose other than as required for 963  
the audit or unless the officers and employees are required to 964  
testify in a court or proceeding under compulsion of legal 965  
process. Whoever violates this provision shall thereafter be 966  
disqualified from acting as an officer or employee or in any other 967  
capacity under appointment or employment of the auditor of state. 968

(2) As provided by section 6103(d)(2) of the Internal Revenue 969  
Code, any federal tax returns or federal tax information that the 970  
department has acquired from the internal revenue service, through 971



federal and state statutory authority, may be disclosed to the auditor of state solely for purposes of an audit of the department.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the board of motor vehicle collision repair registration any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to section 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the

Revised Code, or a seller having a use tax account maintained 1002  
pursuant to section 5741.17 of the Revised Code, or information 1003  
regarding the active or inactive status of a vendor's license, 1004  
direct payment permit, or seller's use tax account; 1005

(8) Releasing invoices or invoice information furnished under 1006  
section 4301.433 of the Revised Code pursuant to that section; 1007

(9) Providing statements regarding applications for air or 1008  
noise pollution control certificates or industrial water pollution 1009  
control certificates as provided in section 5709.211 or 6111.311 1010  
of the Revised Code. 1011

Sec. 5709.211. As soon as is practicable after receiving an 1012  
application for an air or noise pollution control certificate, the 1013  
tax commissioner shall estimate the assessed value of the air or 1014  
noise pollution control facility that is the subject of the 1015  
application and shall issue a statement showing such value and the 1016  
effective date of the certificate, if known, to the county auditor 1017  
of the county in which the facility is located. Within sixty days 1018  
after receiving such a statement, the county auditor shall issue a 1019  
notice to the taxing authority of each taxing unit in which the 1020  
facility is or is to be located. The notice shall state that an 1021  
application for an air or noise pollution control facility has 1022  
been filed for the facility; the effective date of the certificate 1023  
if the date is shown on the tax commissioner's statement; the 1024  
estimated assessed value of the facility shown on the statement; 1025  
the annual amount of taxes that would be charged and payable on 1026  
that value at the current rate of taxation in effect in the taxing 1027  
unit; and that, if approved, the application entitles the facility 1028  
to exemption from taxation and the taxing unit may be required to 1029  
refund any taxes on the facility accruing after the effective date 1030  
of the certificate. The tax commissioner shall issue an amended 1031  
statement if, after the original statement is issued, the estimate 1032

of such assessed value increases or decreases by more than ten per cent of the estimated value shown on the most recently issued statement or amended statement, and the county auditor shall issue an amended notice reflecting such change. 1033  
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The tax commissioner's statement and the county auditor's notice are issued exclusively for the purpose of notifying taxing authorities of the potential for a refund of taxes paid on an air or noise pollution control facility before a pollution control certificate is issued. The statement and notice are not appealable by any person and do not constitute an assessment that is subject to a petition for reassessment by the taxpayer. The notice issued by the county auditor does not constitute a notice required by law to be given for the purpose of section 5717.02 of the Revised Code. 1037  
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Sec. 5725.19. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a nonrefundable credit may be claimed against the tax imposed on a domestic insurance company under section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. 1047  
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Sec. 5729.08. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a nonrefundable credit may be claimed against the tax imposed on a foreign insurance company under section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. 1053  
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Sec. 5733.49. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a nonrefundable credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit 1059  
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shall be claimed for the tax year specified in the certificate 1063  
issued by the authority and in the order required under section 1064  
5733.98 of the Revised Code. 1065

**Sec. 5733.98.** (A) To provide a uniform procedure for 1066  
calculating the amount of tax imposed by section 5733.06 of the 1067  
Revised Code that is due under this chapter, a taxpayer shall 1068  
claim any credits to which it is entitled in the following order, 1069  
except as otherwise provided in section 5733.058 of the Revised 1070  
Code: 1071

(1) The credit for taxes paid by a qualifying pass-through 1072  
entity allowed under section 5733.0611 of the Revised Code; 1073

(2) The credit allowed for financial institutions under 1074  
section 5733.45 of the Revised Code; 1075

(3) The credit for qualifying affiliated groups under section 1076  
5733.068 of the Revised Code; 1077

(4) The subsidiary corporation credit under section 5733.067 1078  
of the Revised Code; 1079

(5) The savings and loan assessment credit under section 1080  
5733.063 of the Revised Code; 1081

(6) The credit for recycling and litter prevention donations 1082  
under section 5733.064 of the Revised Code; 1083

(7) The credit for employers that enter into agreements with 1084  
child day-care centers under section 5733.36 of the Revised Code; 1085

(8) The credit for employers that reimburse employee child 1086  
day-care expenses under section 5733.38 of the Revised Code; 1087

(9) The credit for maintaining railroad active grade crossing 1088  
warning devices under section 5733.43 of the Revised Code; 1089

(10) The credit for purchases of lights and reflectors under 1090  
section 5733.44 of the Revised Code; 1091

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	1092 1093
(12) The credit for manufacturing investments under section 5733.061 of the Revised Code;	1094 1095
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	1096 1097 1098
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	1099 1100
(15) The job training credit under section 5733.42 of the Revised Code;	1101 1102
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	1103 1104
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	1105 1106
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	1107 1108
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	1109 1110
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	1111 1112
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	1113 1114
(22) The export sales credit under section 5733.069 of the Revised Code;	1115 1116
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	1117 1118
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	1119 1120

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code; 1121  
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(26) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; 1123  
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(27) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 1126  
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~~(27)~~(28) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code. 1128  
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(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 1130  
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**Sec. 5747.80.** Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a nonrefundable credit may be claimed against the tax imposed by section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the Revised Code. 1136  
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**Sec. 5747.98.** (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order: 1143  
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(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code; 1147  
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(2) The senior citizen credit under division (C) of section 1149

5747.05 of the Revised Code;	1150
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	1151 1152
(4) The dependent care credit under section 5747.054 of the Revised Code;	1153 1154
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	1155 1156
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	1157 1158
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	1159 1160
(8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	1161 1162
(9) The campaign contribution credit under section 5747.29 of the Revised Code;	1163 1164
(10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1165 1166
(11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1167 1168
(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1169 1170
(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1171 1172
(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	1173 1174 1175
(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;	1176 1177

(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1178 1179
(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1180 1181
(18) The job retention credit under division (B) of section 5747.058 of the Revised Code;	1182 1183
(19) The credit for manufacturing investments under section 5747.051 of the Revised Code;	1184 1185
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	1186 1187 1188
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	1189 1190 1191
(22) The job training credit under section 5747.39 of the Revised Code;	1192 1193
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1194 1195
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1196 1197
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1198 1199
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1200 1201
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1202 1203
(28) The export sales credit under section 5747.057 of the Revised Code;	1204 1205
(29) The credit for research and development and technology	1206



transfer investors under section 5747.33 of the Revised Code;	1207
(30) <u>The credit for losses on loans made under the Ohio</u>	1208
<u>venture capital program under sections 150.01 to 150.10 of the</u>	1209
<u>Revised Code;</u>	1210
(31) The enterprise zone credits under section 5709.65 of the	1211
Revised Code;	1212
<del>(31)</del> (32) The refundable jobs creation credit under division	1213
(A) of section 5747.058 of the Revised Code;	1214
<del>(32)</del> (33) The refundable credit for taxes paid by a qualifying	1215
entity granted under section 5747.059 of the Revised Code;	1216
	1217
<del>(33)</del> (34) The refundable credits for taxes paid by a	1218
qualifying pass-through entity granted under division (J) of	1219
section 5747.08 of the Revised Code;	1220
<del>(34)</del> (35) The refundable credit for tax withheld under	1221
division (B)(1) of section 5747.062 of the Revised Code.	1222
(B) For any credit, except the refundable credits enumerated	1223
in this section and the credit granted under division (I) of	1224
section 5747.08 of the Revised Code, the amount of the credit for	1225
a taxable year shall not exceed the tax due after allowing for any	1226
other credit that precedes it in the order required under this	1227
section. Any excess amount of a particular credit may be carried	1228
forward if authorized under the section creating that credit.	1229
Nothing in this chapter shall be construed to allow a taxpayer to	1230
claim, directly or indirectly, a credit more than once for a	1231
taxable year.	1232
<b>Sec. 6111.31.</b> Appliances, equipment, machinery, and	1233
structures comprising all or a part of an industrial water	1234
pollution control facility as defined in section 6111.01 of the	1235
Revised Code, and installed pursuant to the approval of the	1236

environmental protection agency or any other governmental agency 1237  
having authority to approve the installation of industrial or 1238  
other water pollution abatement or control facilities, and which 1239  
is initially placed in operation, or is initially capable of 1240  
operation on or after December 31, 1965, shall be excepted from 1241  
personal property taxes, franchise taxes and sales and use taxes, 1242  
as provided in this section. Application for an industrial water 1243  
pollution control certificate shall be filed with the director of 1244  
environmental protection in such manner and in such form as may be 1245  
prescribed by regulations adopted and promulgated by the director 1246  
and shall contain plans and specifications of the structure or 1247  
structures, including all materials to be incorporated therein, 1248  
and a descriptive list of all appliances, equipment, and machinery 1249  
to be used as an industrial water pollution control facility. 1250  
Within thirty days after receiving such an application, the 1251  
director shall forward a copy of the application to the tax 1252  
commissioner. The director shall promptly determine whether such 1253  
application should be allowed or disallowed, in whole or in part, 1254  
and shall give notice of such determination by mail to the 1255  
applicant, the tax commissioner, and the auditor of the county or 1256  
counties in which the structure or items described in the 1257  
application will be located. 1258

Within fifteen days after the date of the mailing of such 1259  
notice the applicant, the tax commissioner, or such county auditor 1260  
may apply in writing for a reconsideration of the director's 1261  
determination and request the director to hold a hearing on such 1262  
application. Upon receipt of such application for reconsideration 1263  
and request for hearing, the director shall set a date for such 1264  
hearing and send notice thereof by mail to all persons notified of 1265  
the filing of such application. Such hearing shall be held not 1266  
less than fifteen nor more than thirty days from the date of the 1267  
mailing of the notice thereof. 1268

If no application for reconsideration and request for hearing is filed within such period of fifteen days, the director's determination shall be final. If such application and request is filed, the director, after such hearing, shall finally determine whether the application for an industrial water pollution control certificate should be allowed or disallowed, in whole or in part, and shall send notice thereof by mail to all persons notified of the application for reconsideration.

If any determination of the director which has become final contains a finding that any of the structures or items enumerated in the application for a certificate will be an industrial water pollution control facility, the director shall issue an industrial water pollution control certificate to that effect.

The effective date of such certificate shall be the date when the item or items described therein are acquired or when title to or possession of such item or items is first transferred to the applicant or when construction of any structure or structures enumerated therein begins, whichever is earlier, provided such application shall not relate to facilities placed in operation or capable of operation prior to December 31, 1965, and shall remain in force and effect until revoked or modified as provided by section 6111.32 or 6111.33 of the Revised Code.

Upon the issuance of a certificate the director shall send, by certified mail, such certificate to the applicant and a certified copy thereof to the tax commissioner and to the county auditor of the county or counties in which any property to which the certificate relates is located. The county auditor shall file such certified copy of the certificate of record in ~~his~~ the auditor's office.

**Sec. 6111.311.** As soon as is practicable after receiving a copy of an application for an industrial water pollution control

certificate from the director of environmental protection under 1300  
section 6111.31 of the Revised Code, the tax commissioner shall 1301  
estimate the assessed value of the industrial water pollution 1302  
control facility that is the subject of the application and shall 1303  
issue a statement showing such value and the effective date of the 1304  
certificate, if known, to the county auditor of the county in 1305  
which the facility is located. The tax commissioner is not 1306  
required to issue the statement if, before issuing the statement, 1307  
the tax commissioner receives notice of the director's 1308  
determination allowing or disallowing the application. Within 1309  
sixty days after receiving such a statement, the county auditor 1310  
shall issue a notice to the taxing authority of each taxing unit 1311  
in which the facility is or is to be located, unless the county 1312  
auditor has, within that period, received notice of the director's 1313  
determination allowing or disallowing the application. The notice 1314  
shall state that an application for an industrial water pollution 1315  
control facility has been filed for the facility; the effective 1316  
date of the certificate if the date is shown on the tax 1317  
commissioner's statement; the estimated assessed value of the 1318  
facility shown on the statement; the annual amount of taxes that 1319  
would be charged and payable on that value at the current rate of 1320  
taxation in effect in the taxing unit; and that, if approved, the 1321  
application entitles the facility to exemption from taxation and 1322  
the taxing unit may be required to refund any taxes on the 1323  
facility accruing after the effective date of the certificate. The 1324  
tax commissioner shall issue an amended statement if, after the 1325  
original statement is issued, the estimate of such assessed value 1326  
increases or decreases by more than ten per cent of the estimated 1327  
value shown on the most recently issued statement or amended 1328  
statement, and the county auditor shall issue an amended notice 1329  
reflecting such change. 1330

The tax commissioner's statement and the county auditor's 1331

notice are issued exclusively for the purpose of notifying taxing 1332  
authorities of the potential for a refund of taxes paid on an 1333  
industrial water pollution control facility before a pollution 1334  
control certificate is issued. The statement and notice are not 1335  
appealable by any person and do not constitute an assessment that 1336  
is subject to a petition for reassessment by the taxpayer. The 1337  
notice issued by the county auditor does not constitute a notice 1338  
required by law to be given for the purpose of section 5717.02 of 1339  
the Revised Code. 1340

**Section 2.** That existing sections 149.43, 718.01, 718.14, 1341  
5703.21, 5733.98, 5747.98, and 6111.31 of the Revised Code are 1342  
hereby repealed. 1343

**Section 3.** The enactment by this act of sections 5709.211 and 1344  
6111.311 of the Revised Code applies to applications for air and 1345  
noise pollution control certificates and to applications for 1346  
industrial water pollution control certificates filed on or after 1347  
the effective date of this act. 1348

The enactment of those sections also applies to such 1349  
applications filed before the effective date of this act if such a 1350  
certificate has not been issued before January 1, 2004. With 1351  
respect to such applications, the Tax Commissioner shall issue the 1352  
statements required by those sections as soon as is practicable 1353  
after that effective date, and county auditors shall issue the 1354  
notices required by those sections within sixty days after such a 1355  
statement is received by the county auditor. 1356

**Section 4.** (A) As used in this section, "qualifying taxpayer" 1357  
means a person satisfying all of the following: 1358

(1) The person disputes the valuation or assessment of one or 1359  
more parcels of real property classified according to use as 1360

commercial real property; 1361

(2) The person filed an original complaint against the 1362  
valuation or assessment of such property under section 5715.13 or 1363  
5715.19 of the Revised Code that was dismissed by a county board 1364  
of revision, the Board of Tax Appeals, or a court for lack of 1365  
jurisdictional validity upon finding the filing of the complaint 1366  
was the unauthorized practice of law; 1367

(3) The person has not paid in full the taxes, assessments, 1368  
or charges due on the valuation or assessment of such property for 1369  
the tax years to which those complaints relate. 1370

(B) Notwithstanding section 5715.13 or division (A) of 1371  
section 5715.19 of the Revised Code, a qualifying taxpayer or a 1372  
qualifying taxpayer's attorney may file, with the proper county 1373  
board of revision, a complaint with respect to property described 1374  
in division (A) of this section and with respect to any tax years 1375  
to which the original complaints related and occurring within one 1376  
sexennial reappraisal period within the ten years preceding the 1377  
effective date of this section. The complaint shall be filed not 1378  
later than six months after the effective date of this section. 1379  
Upon the proper and timely filing of a complaint under this 1380  
section, the board of revision shall proceed as otherwise 1381  
prescribed in Chapter 5715. of the Revised Code and shall certify 1382  
its action to the county auditor. Notwithstanding section 5715.22 1383  
of the Revised Code, if the board of revision finds that the 1384  
amount of taxes, assessments, and charges paid for the tax years 1385  
to which the complaint relates exceeds the amount due for those 1386  
years, the county auditor shall not draw a warrant for the refund 1387  
of the overpayment or any portion thereof, and shall not credit 1388  
the overpayment or any portion thereof against the amount of any 1389  
taxes, assessments, or charges that may be due in the future from 1390  
the qualifying taxpayer. The county auditor shall adjust the 1391  
amount of taxes, assessments, and charges shown to be due on the 1392

current tax list from the years to which the complaint relates in 1393  
accordance with the board's finding, and shall certify such 1394  
adjustment to the county treasurer, who shall adjust the tax 1395  
duplicate accordingly. 1396

(C) It is the intent of the General Assembly to exercise its 1397  
authority under Ohio Constitution, Article II, Section 28, to pass 1398  
a general law authorizing courts to carry into effect, upon such 1399  
terms as are just and equitable, the manifest intention of 1400  
parties, and officers, by curing omissions, defects, and errors in 1401  
instruments and proceedings arising out of their want of 1402  
conformity with the laws of this state. This section is remedial 1403  
legislation and does not affect pending or past complaints where 1404  
jurisdiction over a complainant absolutely vested with a county 1405  
board of revision. It is the intent of the General Assembly that 1406  
if a board of revision never had jurisdiction over a complainant 1407  
because the complainant's previous complaint failed to vest 1408  
jurisdictional validity because of an unauthorized practice of law 1409  
violation, then no rights have vested with respect to the 1410  
determination of the total valuation or assessment of a commercial 1411  
parcel owned by the complainant, and, as such, there is not a 1412  
reasonable expectation of finality with regard to said 1413  
determination. Further, it is the intent of the General Assembly 1414  
that this section merely modifies the existing right of a property 1415  
owner, granted under sections 5715.13 and 5715.19 of the Revised 1416  
Code, to file a complaint against a determination of the total 1417  
valuation or assessment of a commercial parcel owned by the 1418  
complainant, by expanding the statute of limitations under which a 1419  
complaint can be filed. 1420

**Section 5.** Section 4 of this act is hereby repealed on the 1421  
first day of the seventh month beginning after the effective date 1422  
of this section. 1423