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Sub. H. B. No. 51

**Representatives Hughes, Willamowski, Oelslager, Harwood, Book, Brown,
Carmichael, C. Evans, Fessler, Flowers, Gilb, Hartnett, Latta, Martin,
McGregor, T. Patton, Perry, Reidelbach, Schmidt, Schneider, Skindell,
S. Smith, D. Stewart, Yates**

A B I L L

To amend sections 2106.01, 2106.02, 2107.19,	1
2109.301, 2109.32, 2113.53, 2117.06, 2117.07,	2
2117.11, 2117.12, and 5731.21 and to enact section	3
2101.163 of the Revised Code relative to the	4
election by a surviving spouse, notice of	5
admission of a will to probate, accounts of	6
administrators and executors, distribution of	7
estate assets, presentation of creditors' claims	8
to distributees, dispute resolution procedures in	9
probate court, time for presenting claims against	10
an estate, and elimination of the duty to file an	11
estate tax return in specified circumstances.	12

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

Section 1. That sections 2106.01, 2106.02, 2107.19, 2109.301,	13
2109.32, 2113.53, 2117.06, 2117.07, 2117.11, 2117.12, and 5731.21	14
be amended and section 2101.163 of the Revised Code be enacted to	15
read as follows:	16

<u>Sec. 2101.163. (A) A probate judge may establish by rule</u>	17
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procedures for the resolution of disputes between parties to any 18
civil action or proceeding that is within the jurisdiction of the 19
probate court. Any procedures so adopted shall include, but are 20
not limited to, mediation. If the probate judge establishes any 21
procedures under this division, the probate judge may charge, in 22
addition to the fees and costs authorized under section 2101.16 of 23
the Revised Code, a reasonable fee that is to be collected on the 24
filing of each action or proceeding and that is to be used to 25
implement the procedures. 26

(B) The probate court shall pay to the county treasurer of 27
the county in which the court is located all fees collected under 28
division (A) of this section. The treasurer shall place the funds 29
from the fees in a separate fund to be disbursed upon an order of 30
the probate judge. 31

(C) If the probate judge determines that the amount of the 32
moneys in the fund described in division (B) of this section is 33
more than the amount that is sufficient to satisfy the purpose for 34
which the additional fee described in division (A) of this section 35
was imposed, the probate judge may declare a surplus in the fund 36
and expend the surplus moneys for other appropriate expenses of 37
the probate court. 38

Sec. 2106.01. (A) After the initial appointment of an 39
administrator or executor of the estate, the probate court shall 40
issue a citation to the surviving spouse, if any is living at the 41
time of the issuance of the citation, to elect whether to exercise 42
the surviving spouse's rights under Chapter 2106. of the Revised 43
Code, including, after the probate of a will, the right to elect 44
to take under the will or under section 2105.06 of the Revised 45
Code. 46

A surviving spouse may waive the service of the citation 47

required under this division by filing in the probate court a 48
written waiver of the citation. The waiver shall include an 49
acknowledgment of receipt of the description of the general rights 50
of the surviving spouse required by division (B) of section 51
2106.02 of the Revised Code. 52

(B) If the surviving spouse elects to take under section 53
2105.06 of the Revised Code and if the value of the property that 54
the surviving spouse is entitled to receive is equal to or greater 55
than the value of the decedent's interest in the mansion house as 56
determined under section 2106.10 of the Revised Code, the 57
surviving spouse also is entitled to make an election pursuant to 58
division (A) of section 2106.10 of the Revised Code. 59

(C) If the surviving spouse elects to take under section 60
2105.06 of the Revised Code, the surviving spouse shall take not 61
to exceed one-half of the net estate, unless two or more of the 62
decedent's children or their lineal descendants survive, in which 63
case the surviving spouse shall take not to exceed one-third of 64
the net estate. 65

For purposes of this division, the net estate shall be 66
determined before payment of federal estate tax, estate taxes 67
under Chapter 5731. of the Revised Code, or any other tax that is 68
subject to apportionment under section 2113.86 or 2113.861 of the 69
Revised Code. 70

(D) Unless the will expressly provides that in case of an 71
election under division (A) of this section there shall be no 72
acceleration of remainder or other interests bequeathed or devised 73
by the will, the balance of the net estate shall be disposed of as 74
though the surviving spouse had predeceased the testator. If there 75
is a disposition by a will to an inter vivos trust that was 76
created by the testator, if under the terms of the trust the 77
surviving spouse is entitled to any interest in the trust or is 78

granted any power or nomination with respect to the trust, and if 79
the surviving spouse makes an election to take under section 80
2105.06 of the Revised Code, then, unless the trust instrument 81
provides otherwise, the surviving spouse is deemed for purposes of 82
the trust to have predeceased the testator, and there shall be an 83
acceleration of remainder or other interests in all property 84
bequeathed or devised to the trust by the will, in all property 85
held by the trustee at the time of the death of the decedent, and 86
in all property that comes into the hands of the trustee by reason 87
of the death of the decedent. 88

(E) The election of a surviving spouse to take under a will 89
or under section 2105.06 of the Revised Code may be made at any 90
time after the death of the decedent, but the surviving spouse 91
shall not make the election later than five months from the date 92
of the initial appointment of an administrator or executor of the 93
estate. On a motion filed before the expiration of the five-month 94
period, and for good cause shown, the court may allow further time 95
for the making of the election. If no action is taken by the 96
surviving spouse before the expiration of the five-month period, 97
it is conclusively presumed that the surviving spouse elects to 98
take under the will. The election shall be entered on the journal 99
of the court. 100

When proceedings for advice or to contest the validity of a 101
will are begun within the time allowed by this division for making 102
the election, the election may be made within three months after 103
the final disposition of the proceedings, if the will is not set 104
aside. 105

(F) When a surviving spouse succeeds to the entire estate of 106
the testator, having been named the sole devisee and legatee, it 107
shall be presumed that the spouse elects to take under the will of 108
the testator, unless the surviving spouse manifests a contrary 109
intention. 110

Sec. 2106.02. (A) The citation to make the election referred 111
to in section 2106.01 of the Revised Code shall be ~~sent to~~ served 112
on the surviving spouse ~~by certified mail~~ pursuant to Civil Rule 113
73. Notice that the citation has been issued by the court shall be 114
given to the administrator or executor of the estate of the 115
deceased spouse. 116

(B) The citation shall be accompanied by a general 117
description of the effect of the election to take under the will 118
or under section 2105.06 of the Revised Code and the general 119
rights of the surviving spouse under Chapter 2106. of the Revised 120
Code. The ~~description~~ descriptions described in this division 121
shall include a specific reference to the procedures available to 122
the surviving spouse under section 2106.03 of the Revised Code and 123
to the presumption that arises if the surviving spouse does not 124
make the election in accordance with division (E) of section 125
2106.01 of the Revised Code. The description of the general rights 126
of the surviving spouse under Chapter 2106. of the Revised Code 127
shall include a specific reference to the presumption that arises 128
if the surviving spouse does not ~~make~~ exercise the election rights 129
under Chapter 2106. of the Revised Code within the time period 130
specified by section 2106.25 of the Revised Code. The description 131
of the effect of the election and of the general rights of the 132
surviving spouse need not relate to the nature of any particular 133
estate. 134

(C) A surviving spouse electing to take under the will may 135
manifest the election in writing within the times described in 136
division (E) of section 2106.01 of the Revised Code. 137

Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of 138
this section, when a will has been admitted to probate, the 139
fiduciary for the estate or another person specified in division 140

(A)(4) of this section shall, within two weeks of the admission of the will to probate, give a notice as described in this division and in the manner provided by Civil Rule 73(E) to the surviving spouse of the testator, to all persons who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code if the testator had died intestate, and to all legatees and devisees named in the will. The notice shall mention the probate of the will and, if a particular person being given the notice is a legatee or devisee named in the will, shall state that the person is named in the will as beneficiary. A copy of the will admitted to probate is not required to be given with the notice.

(2) A person entitled to be given the notice described in division (A)(1) of this section may waive that right by filing a written waiver of the right to receive the notice in the probate court. The person may file the waiver of the right to receive the notice at any time prior to or after the will has been admitted to probate.

(3) The fact that the notice described in division (A)(1) of this section has been given, subject to division (B) of this section, to all persons described in division (A)(1) of this section who have not waived their right to receive the notice, and, if applicable, the fact that certain persons described in that division have waived their right to receive the notice in accordance with division (A)(2) of this section, shall be evidenced by a certificate that shall be filed in the probate court in accordance with division (A)(4) of this section.

(4) The notice of the admission of the will to probate required by division (A)(1) of this section and the certificate of giving notice or waiver of notice required by division (A)(3) of this section shall be given or filed by the fiduciary for the estate or by the applicant for the admission of the will to

probate, the applicant for a release from administration, any 172
other interested person, or the attorney for the fiduciary or for 173
any of the preceding persons. The certificate of giving notice 174
shall be filed not later than two months after the appointment of 175
the fiduciary or, if no fiduciary has been appointed, not later 176
than two months after the admission of the will to probate, unless 177
the court grants an extension of that time. Failure to file the 178
certificate in a timely manner shall subject the fiduciary or 179
applicant to the citation and penalty provisions of section 180
2109.31 of the Revised Code. 181

(B) The fiduciary or another person specified in division 182
(A)(4) of this section is not required to give a notice pursuant 183
to division (A)(1) of this section to persons who have been 184
notified of the application for probate of the will or of a 185
contest as to jurisdiction or to persons whose names or places of 186
residence are unknown and cannot with reasonable diligence be 187
ascertained, and a person authorized by division (A)(4) of this 188
section to give notice shall file in the probate court a 189
certificate to that effect. 190

Sec. 2109.301. (A) An administrator or executor shall render 191
an account at any time other than a time otherwise mentioned in 192
this section upon an order of the probate court issued for good 193
cause shown either at its own instance or upon the motion of any 194
person interested in the estate. Except as otherwise provided in 195
division (B)(2) of this section, an administrator or executor 196
shall render a final account within thirty days after completing 197
the administration of the estate or within any other period of 198
time that the court may order. 199

Every account shall include an itemized statement of all 200
receipts of the administrator or executor during the accounting 201
period and of all disbursements and distributions made by the 202

executor or administrator during the accounting period. In 203
addition, the account shall include an itemized statement of all 204
funds, assets, and investments of the estate known to or in the 205
possession of the administrator or executor at the end of the 206
accounting period and shall show any changes in investments since 207
the last previous account. 208

Every account shall be upon the signature of the 209
administrator or executor. When two or more administrators or 210
executors render an account, the court may allow the account upon 211
the signature of one of them. The court may examine the 212
administrator or executor under oath concerning the account. 213

When an administrator or executor is authorized by law or by 214
the instrument governing distribution to distribute the assets of 215
the estate, in whole or in part, the administrator or executor may 216
do so and include a report of the distribution in the 217
administrator's or executor's succeeding account. 218

In estates of decedents in which none of the legatees, 219
devisees, or heirs is under a legal disability, each partial 220
accounting of an executor or administrator may be waived by the 221
written consent of all the legatees, devisees, or heirs filed in 222
lieu of a partial accounting otherwise required. 223

(B)(1) Every administrator and executor, within six months 224
after appointment, shall render a final and distributive account 225
of the administrator's or executor's administration of the estate 226
unless one or more of the following circumstances apply: 227

(a) An Ohio estate tax return must be filed for the estate. 228

(b) A proceeding contesting the validity of the decedent's 229
will pursuant to section 2107.71 of the Revised Code has been 230
commenced. 231

(c) The surviving spouse has filed an election to take 232
against the will. 233

(d) The administrator or executor is a party in a civil action.	234 235
(e) The estate is insolvent.	236
(f) For other reasons set forth by the administrator or executor, subject to court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account.	237 238 239 240
(2) In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required, and the. The administrator or executor <u>of an estate of that type</u> shall not file a final account or final and distributive account. In or, in lieu of filing a final account, the administrator or executor of an estate of that type shall be discharged by filing <u>may file</u> with the court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following:	241 242 243 244 245 246 247 248 249 250
(a) All debts and claims presented to the estate have been paid in full or settled finally.	251 252
(b) An estate tax return, if required under the provisions of the Internal Revenue Code or Chapter 5731. of the Revised Code, has been filed, and any estate tax has been paid.	253 254 255
(c) All attorney's fees have been waived by or paid to counsel of record of the estate, and all executor or administrator fees have been waived or paid.	256 257 258
(d) The amount of attorney's fees and the amount of administrator or executor fees that have been paid.	259 260
(e) All assets remaining after completion of the activities described in divisions (B)(2)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir.	261 262 263

(3) In an estate of the type described in division (B)(2) of this section, a sole legatee, devisee, or heir of a decedent may be liable to creditors for debts of and claims against the estate that are presented after the filing of the certificate of termination described in that division and within the time allowed by section 2117.06 of the Revised Code for presentation of the creditors' claims.

(4) Not later than thirteen months after appointment, every administrator and executor shall render an account of the administrator's or executor's administration, unless a certificate of termination is filed under division (B)(2) of this section. Except as provided in divisions (B)(1) and (2) of this section, after the initial account is rendered, every administrator and executor shall render further accounts at least once each year.

Sec. 2109.32. (A) Every fiduciary's account required by section 2109.301, 2109.302, or 2109.303 of the Revised Code shall be set for hearing before the probate court. The hearing on the account shall be set not earlier than thirty days after the filing of the account.

At the hearing upon an account required by section 2109.302 or 2109.303 of the Revised Code and, if ordered by the court, upon an account required by section 2109.301 of the Revised Code, the court shall inquire into, consider, and determine all matters relative to the account and the manner in which the fiduciary has executed the fiduciary's trust, including the investment of trust funds, and may order the account approved and settled or make any other order as the court considers proper. If, at the hearing upon an account, the court finds that the fiduciary has fully and lawfully administered the estate or trust and has distributed the assets of the estate or trust in accordance with the law or the instrument governing distribution, as shown in the account, the

court shall order the account approved and settled and may order 295
the fiduciary discharged. Upon approval of a final and 296
distributive account required by division (B)(1) of section 297
2109.301 of the Revised Code, the court may order the surety bond 298
for the fiduciary terminated. Unless otherwise ordered by the 299
court, the fiduciary shall be discharged without further order 300
twelve months following the approval of the final and distributive 301
account. 302

(B)(1) An administrator or executor filing an account 303
pursuant to section 2109.301 of the Revised Code shall provide at 304
the time of filing the account a copy of the account to each heir 305
of an intestate estate or to each beneficiary of a testate estate. 306
An administrator or executor is not required to provide a copy of 307
the account to any of the following: 308

(a) An heir or a beneficiary whose residence is unknown; 309

(b) A beneficiary of a specific bequest or devise who has 310
received his or her distribution and for which a receipt has been 311
filed or exhibited with the court. 312

(2) An administrator or executor filing an account pursuant 313
to section 2109.301 of the Revised Code shall file with the 314
probate court a certificate of service of account within three 315
business days of filing the account. 316

(3) The probate court shall not approve the final account of 317
any executor or administrator until the following events have 318
occurred: 319

(a) Three months have passed since the death of the decedent. 320

(b) The surviving spouse has filed an election to take under 321
or against the will, or the time for making the election has 322
expired. 323

~~(3)~~(4) If an administrator or executor learns of the 324

existence of newly discovered assets after the filing of the final 325
account or otherwise comes into possession of assets belonging to 326
the estate after the filing of the final account, the executor or 327
administrator shall file a supplemental final account with respect 328
to the disposition of the assets and shall provide a copy of the 329
supplemental final account to each heir of an intestate estate or 330
to each beneficiary of a testate estate, as provided in division 331
(B)(1) of this section and subject to the exceptions specified in 332
divisions (B)(1)(a) and (b) of this section. 333

(C) The rights of any person with a pecuniary interest in the 334
estate are not barred by approval of an account pursuant to 335
divisions (A) and (B) of this section. These rights may be barred 336
following a hearing on the account pursuant to section 2109.33 of 337
the Revised Code. 338

Sec. 2113.53. (A) At any time after the appointment of an 339
executor or administrator, the executor or administrator may 340
distribute to the beneficiaries entitled to assets of the estate 341
under the will, if there is no action pending to set aside the 342
will, or to the heirs entitled to assets of the estate by law, in 343
cash or in kind, any part or all of the assets of the estate. Each 344
beneficiary or heir is liable to return the assets, or the 345
proceeds from the assets, to the estate if they are necessary to 346
satisfy the share of a surviving spouse who elects to take against 347
the will pursuant to section 2106.01 of the Revised Code, ~~if they~~ 348
~~are necessary to satisfy any claims against the estate as provided~~ 349
~~in this section,~~ or if the will is set aside. 350

(B) After distribution pursuant to division (A) of this 351
section, a distributee shall be personally liable to a claimant 352
who presents a valid claim within the time set forth in division 353
(B) of section 2117.06 of the Revised Code, subject to the 354
limitations described in this division. 355

If presentation of a claim is made pursuant to division 356
(A)(2) of section 2117.06 of the Revised Code, only those 357
distributees who have received timely presentation of the claim 358
pursuant to division (B) of that section have any liability for 359
the claim, subject to the limitations described in this division. 360

The personal liability of any distributee shall not exceed 361
the lesser of the following: 362

(1) The amount the distributee has received reduced by the 363
amount, if any, previously returned or otherwise used for the 364
payment of the spouse's share or claims finally allowed; 365

(2) The distributee's proportionate share of the spouse's 366
share or of claims finally allowed. Any distributee's 367
proportionate share of the spouse's share or of claims finally 368
allowed shall be determined by the following fraction: 369

(a) The numerator shall be the total amount received by the 370
distributee, reduced by all amounts, if any, previously returned 371
or otherwise used for the payment of the spouse's share or claims 372
finally allowed. 373

(b) The denominator shall be the total amount received by all 374
distributees reduced by all amounts, if any, previously returned 375
or otherwise used for the payment of the spouse's share or claims 376
finally allowed. 377

(C) If there is a surviving spouse and if the executor or 378
administrator distributes any part of the assets of the estate 379
before the expiration of the times described in division (E) of 380
section 2106.01 of the Revised Code for the making of an election 381
by a surviving spouse, the executor or administrator shall be 382
personally liable to any surviving spouse who subsequently elects 383
to take against the will. If the executor or administrator 384
distributes any part of the assets of the estate within three 385
months after the death of the decedent, the executor or 386

administrator shall be personally liable only to those claimants 387
who present their claims within that three-month period. If the 388
executor or administrator distributes any part of the assets of 389
the estate more than three months but less than one year after the 390
death of the decedent, the executor or administrator shall be 391
personally liable only to those claimants who present their claims 392
before the time of distribution and within the time set forth in 393
division (B) of section 2117.06 of the Revised Code. 394

The executor or administrator shall be liable only to the 395
extent that the sum of the remaining assets of the estate and the 396
assets returned by the beneficiaries or heirs is insufficient to 397
satisfy the share of the surviving spouse and to satisfy the 398
claims against the estate. The executor or administrator shall not 399
be liable in any case for an amount greater than the value of the 400
estate that existed at the time that the distribution of assets 401
was made and that was subject to the spouse's share or to the 402
claims. 403

(D) The executor or administrator may provide for the payment 404
of rejected claims or claims in suit by setting aside a sufficient 405
amount of the assets of the estate for paying the claims. The 406
assets shall be set aside for the payment of the claims in a 407
manner approved by the probate court. Each claimant for whom 408
assets are to be set aside shall be given notice, in the manner as 409
the court shall order, of the hearing upon the application to set 410
aside assets and shall have the right to be fully heard as to the 411
nature and amount of the assets to be set aside for payment of the 412
claim and as to all other conditions in connection with the claim. 413
In any case in which the executor or administrator may set aside 414
assets as provided in this section, the court, upon its own motion 415
or upon application of the executor or administrator, as a 416
condition precedent to any distribution, may require any 417
beneficiary or heir to give a bond to the state with surety 418

approved and in an amount fixed by the court, conditioned to 419
secure the return of the assets to be distributed, or the proceeds 420
from the assets or as much of the assets as may be necessary to 421
satisfy the claims that may be recovered against the estate, and 422
to indemnify the executor or administrator against loss and damage 423
on account of such distribution. The bond may be in addition to 424
the assets to be set aside or partially or wholly in lieu of the 425
assets, as the court shall determine. 426

Sec. 2117.06. (A) All creditors having claims against an 427
estate, including claims arising out of contract, out of tort, on 428
cognovit notes, or on judgments, whether due or not due, secured 429
or unsecured, liquidated or unliquidated, shall present their 430
claims in one of the following manners: 431

(1) After the appointment of an executor or administrator and 432
prior to the filing of a final account or a certificate of 433
termination, in one of the following manners: 434

(a) To the executor or administrator in a writing; 435

~~(2)~~(b) To the executor or administrator in a writing, and to 436
the probate court by filing a copy of the writing with it; 437

~~(3)~~(c) In a writing that is sent by ordinary mail addressed 438
to the decedent and that is actually received by the executor or 439
administrator within the appropriate time specified in division 440
(B) of this section. For purposes of this division, if an executor 441
or administrator is not a natural person, the writing shall be 442
considered as being actually received by the executor or 443
administrator only if the person charged with the primary 444
responsibility of administering the estate of the decedent 445
actually receives the writing within the appropriate time 446
specified in division (B) of this section. 447

(2) If the final account or certificate of termination has 448

been filed, in a writing to those distributees of the decedent's 449
estate who may share liability for the payment of the claim. 450

(B) All claims shall be presented within ~~one year~~ six months 451
after the death of the decedent, whether or not the estate is 452
released from administration or an executor or administrator is 453
appointed during that ~~one year~~ six-month period. Every claim 454
presented shall set forth the claimant's address. 455

(C) A claim that is not presented within ~~one year~~ six months 456
after the death of the decedent shall be forever barred as to all 457
parties, including, but not limited to, devisees, legatees, and 458
distributees. No payment shall be made on the claim and no action 459
shall be maintained on the claim, except as otherwise provided in 460
sections 2117.37 to 2117.42 of the Revised Code with reference to 461
contingent claims. 462

(D) In the absence of any prior demand for allowance, the 463
executor or administrator shall allow or reject all claims, except 464
tax assessment claims, within thirty days after their 465
presentation, provided that failure of the executor or 466
administrator to allow or reject within that time shall not 467
prevent the executor or administrator from doing so after that 468
time and shall not prejudice the rights of any claimant. Upon the 469
allowance of a claim, the executor or the administrator, on demand 470
of the creditor, shall furnish the creditor with a written 471
statement or memorandum of the fact and date of the allowance. 472

(E) If the executor or administrator has actual knowledge of 473
a pending action commenced against the decedent prior to the 474
decedent's death in a court of record in this state, the executor 475
or administrator shall file a notice of the appointment of the 476
executor or administrator in the pending action within ten days 477
after acquiring that knowledge. If the administrator or executor 478
is not a natural person, actual knowledge of a pending suit 479

against the decedent shall be limited to the actual knowledge of 480
the person charged with the primary responsibility of 481
administering the estate of the decedent. Failure to file the 482
notice within the ten-day period does not extend the claim period 483
established by this section. 484

(F) This section applies to any person who is required to 485
give written notice to the executor or administrator of a motion 486
or application to revive an action pending against the decedent at 487
the date of the death of the decedent. 488

(G) Nothing in this section or in section 2117.07 of the 489
Revised Code shall be construed to reduce the time mentioned in 490
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 491
of the Revised Code, provided that no portion of any recovery on a 492
claim brought pursuant to any of those sections shall come from 493
the assets of an estate unless the claim has been presented 494
against the estate in accordance with Chapter 2117. of the Revised 495
Code. 496

(H) Any person whose claim has been presented and has not 497
been rejected after presentment is a creditor as that term is used 498
in Chapters 2113. to 2125. of the Revised Code. Claims that are 499
contingent need not be presented except as provided in sections 500
2117.37 to 2117.42 of the Revised Code, but, whether presented 501
pursuant to those sections or this section, contingent claims may 502
be presented in any of the manners described in division (A) of 503
this section. 504

(I) If a creditor presents a claim against an estate in 505
accordance with division (A)~~(2)~~(1)(b) of this section, the probate 506
court shall not close the administration of the estate until that 507
claim is allowed or rejected. 508

(J) The probate court shall not require an executor or 509
administrator to make and return into the court a schedule of 510

claims against the estate. 511

(K) If the executor or administrator makes a distribution of 512
the assets of the estate pursuant to section 2113.53 of the 513
Revised Code and prior to the expiration of the time for the 514
filing presentation of claims as set forth in this section, the 515
executor or administrator shall provide notice on the account 516
delivered to each distributee that the distributee may be liable 517
to the estate if a claim is presented prior to the filing of the 518
final account and may be liable to the claimant if the claim is 519
presented after the filing of the final account up to the value of 520
the distribution and may be required to return all or any part of 521
the value of the distribution if a valid claim is subsequently 522
made against the estate within the time permitted under this 523
section. 524

Sec. 2117.07. An executor or administrator may accelerate the 525
bar against claims against the estate established by section 526
2117.06 of the Revised Code by giving written notice to a 527
potential claimant that identifies the decedent by name, states 528
the date of the death of the decedent, identifies the executor or 529
administrator by name and mailing address, and informs the 530
potential claimant that any claims ~~he~~ the claimant may have 531
against the estate are required to be presented to the executor or 532
administrator in a writing within the earlier of thirty days after 533
receipt of the notice by the potential claimant or ~~one year~~ six 534
months after the date of the death of the decedent. A claim of 535
that potential claimant that is not presented in the manner 536
provided by section 2117.06 of the Revised Code within the earlier 537
of thirty days after receipt of the notice by the potential 538
claimant or ~~one year~~ six months after the date of the death of the 539
decedent is barred by section 2117.06 of the Revised Code in the 540
same manner as if it was not presented within ~~one year~~ six months 541
after the date of the death of the decedent. 542

Sec. 2117.11. An executor or administrator, or a distributee 543
who receives the presentation of a claim as provided in division 544
(A)(2) of section 2117.06 of the Revised Code, shall reject a 545
creditor's claim against the estate ~~he represents~~ by giving the 546
claimant written notice of the disallowance ~~thereof~~ of the claim. 547
~~Such~~ The notice shall be given to the claimant ~~personally or by~~ 548
~~registered mail with return receipt requested, addressed to the~~ 549
~~claimant at the address given on the claim~~ pursuant to Civil Rule 550
73. Notice by mail shall be effective on delivery of the mail at 551
the address given. A claim may be rejected in whole or in part. A 552
claim ~~which~~ that has been allowed may be rejected at any time 553
~~thereafter~~ after allowance of the claim. 554

A claim is rejected if the executor or administrator, or a 555
distributee who receives the presentation of a claim as provided 556
in division (A)(2) of section 2117.06 of the Revised Code, on 557
demand in writing by the claimant for an allowance ~~thereof~~ of the 558
claim within five days, which demand may be made at presentation 559
or at any time ~~thereafter~~ after presentation, fails to give to the 560
claimant, within ~~such~~ that five-day period, a written statement of 561
the allowance of ~~such~~ the claim. ~~Such~~ The rejection shall become 562
effective at the expiration of ~~such~~ that period. 563

Sec. 2117.12. When a claim against an estate has been 564
rejected in whole or in part but not referred to referees, or when 565
a claim has been allowed in whole or in part and thereafter 566
rejected, the claimant must commence an action on the claim, or 567
that part ~~thereof~~ of the claim that was rejected, within two 568
months after ~~such~~ the rejection if the debt or that part ~~thereof~~ 569
of the debt that was rejected is then due, or within two months 570
after ~~the same~~ that debt or part of the debt that was rejected 571
becomes due, or be forever barred from maintaining an action 572
~~thereon~~ on the claim or part of the claim that was rejected. If 573

the executor or administrator dies, resigns, or is removed within 574
~~such two months~~ that two-month period and before action is 575
commenced ~~thereon~~ on the claim or part of the claim that was 576
rejected, the action may be commenced within two months after the 577
appointment of a successor. 578

For the purposes of this section, the action of a claimant is 579
commenced when the ~~petition~~ complaint and praecipe for service of 580
summons on the executor or administrator, or on the distributee 581
who received the presentation of the claim as provided in division 582
(A)(2) of section 2117.06 of the Revised Code, have been filed. 583

Sec. 5731.21. (A)(1)(a) Except as provided under division 584
(A)(3) of this section, the executor or administrator, or, if no 585
executor or administrator has been appointed, another person in 586
possession of property the transfer of which is subject to estate 587
taxes under section 5731.02 or division (A) of section 5731.19 of 588
the Revised Code, shall file an estate tax return, within nine 589
months of the date of the decedent's death, in the form prescribed 590
by the tax commissioner, in duplicate, with the probate court of 591
the county. The return shall include all property the transfer of 592
which is subject to estate taxes, whether that property is 593
transferred under the last will and testament of the decedent or 594
otherwise. The time for filing the return may be extended by the 595
tax commissioner. 596

(b) The estate tax return described in division (A)(1)(a) of 597
this section shall be accompanied by a certificate, in the form 598
prescribed by the tax commissioner, that is signed by the 599
executor, administrator, or other person required to file the 600
return, and that states all of the following: 601

(i) The fact that the return was filed; 602

(ii) The date of the filing of the return; 603

(iii) The fact that the estate taxes under section 5731.02 or 604
division (A) of section 5731.19 of the Revised Code, that are 605
shown to be due in the return, have been paid in full; 606

(iv) If applicable, the fact that real property listed in the 607
inventory for the decedent's estate is included in the return; 608

(v) If applicable, the fact that real property not listed in 609
the inventory for the decedent's estate, including, but not 610
limited to, survivorship tenancy property as described in section 611
5302.17 of the Revised Code or transfer on death property as 612
described in sections 5302.22 and 5302.23 of the Revised Code, 613
also is included in the return. In this regard, the certificate 614
additionally shall describe that real property by the same 615
description used in the return. 616

(2) The probate court shall forward one copy of the estate 617
tax return described in division (A)(1)(a) of this section to the 618
tax commissioner. 619

(3) A person shall not be required to file a return under 620
division (A) of this section if ~~the~~ either of the following apply: 621

(a) The decedent was a resident of this state, and the value 622
of the decedent's gross estate is twenty-five thousand dollars or 623
less in the case of a decedent dying on or after July 1, 1968, but 624
before January 1, 2001; two hundred thousand dollars or less in 625
the case of a decedent dying on or after January 1, 2001, but 626
before January 1, 2002; or three hundred thirty-eight thousand 627
three hundred thirty-three dollars or less in the case of a 628
decedent dying on or after January 1, 2002. 629

(b) All property included in the value of the taxable estate 630
is transferred to the decedent's surviving spouse in a transfer 631
that would qualify for the marital deduction or qualifying 632
terminable interest property deduction under division (A) or (B) 633
of section 5731.15 of the Revised Code. 634

(4)(a) Upon receipt of the estate tax return described in 635
division (A)(1)(a) of this section and the accompanying 636
certificate described in division (A)(1)(b) of this section, the 637
probate court promptly shall give notice of the return, by a form 638
prescribed by the tax commissioner, to the county auditor. The 639
auditor then shall make a charge based upon the notice and shall 640
certify a duplicate of the charge to the county treasurer. The 641
treasurer then shall collect, subject to division (A) of section 642
5731.25 of the Revised Code or any other statute extending the 643
time for payment of an estate tax, the tax so charged. 644

(b) Upon receipt of the return and the accompanying 645
certificate, the probate court also shall forward the certificate 646
to the auditor. When satisfied that the estate taxes under section 647
5731.02 or division (A) of section 5731.19 of the Revised Code, 648
that are shown to be due in the return, have been paid in full, 649
the auditor shall stamp the certificate so forwarded to verify 650
that payment. The auditor then shall return the stamped 651
certificate to the probate court. 652

(5)(a) The certificate described in division (A)(1)(b) of 653
this section is a public record subject to inspection and copying 654
in accordance with section 149.43 of the Revised Code. It shall be 655
kept in the records of the probate court pertaining to the 656
decedent's estate and is not subject to the confidentiality 657
provisions of section 5731.90 of the Revised Code. 658

(b) All persons are entitled to rely on the statements 659
contained in a certificate as described in division (A)(1)(b) of 660
this section if it has been filed in accordance with that 661
division, forwarded to a county auditor and stamped in accordance 662
with division (A)(4) of this section, and placed in the records of 663
the probate court pertaining to the decedent's estate in 664
accordance with division (A)(5)(a) of this section. The real 665
property referred to in the certificate shall be free of, and may 666

be regarded by all persons as being free of, any lien for estate 667
taxes under section 5731.02 and division (A) of section 5731.19 of 668
the Revised Code. 669

(B) An estate tax return filed under this section, in the 670
form prescribed by the tax commissioner, and showing that no 671
estate tax is due shall result in a determination that no estate 672
tax is due, if the tax commissioner within three months after the 673
receipt of the return by the department of taxation, fails to file 674
exceptions to the return in the probate court of the county in 675
which the return was filed. A copy of exceptions to a return of 676
that nature, when the tax commissioner files them within that 677
period, shall be sent by ordinary mail to the person who filed the 678
return. The tax commissioner is not bound under this division by a 679
determination that no estate tax is due, with respect to property 680
not disclosed in the return. 681

(C) If the executor, administrator, or other person required 682
to file an estate tax return fails to file it within nine months 683
of the date of the decedent's death, the tax commissioner may 684
determine the estate tax in that estate and issue a certificate of 685
determination in the same manner as is provided in division (B) of 686
section 5731.27 of the Revised Code. A certificate of 687
determination of that nature has the same force and effect as 688
though a return had been filed and a certificate of determination 689
issued with respect to the return. 690

Section 2. That existing sections 2106.01, 2106.02, 2107.19, 691
2109.301, 2109.32, 2113.53, 2117.06, 2117.07, 2117.11, 2117.12, 692
and 5731.21 of the Revised Code are hereby repealed. 693

Section 3. (A) Sections 2106.01, 2106.02, 2107.19, 2109.301, 694
2109.32, 2113.53, 2117.06, 2117.07, 2117.11, and 2117.12 of the 695
Revised Code, as amended by this act, apply to estates that are in 696

existence or are initiated on or after the effective date of this 697
act. 698

(B) Section 2101.163 of the Revised Code, as enacted by this 699
act, applies to civil actions and proceedings that are pending in 700
or brought before the probate court on or after the effective date 701
of this act. 702

Section 4. It is hereby declared that it was the intent of 703
the General Assembly that the sections of the Revised Code 704
described in Section 2 of Sub. H.B. 85 of the 124th General 705
Assembly were to be repealed effective December 31, 2001, to 706
coincide with Section 5 of Sub. H.B. 85 of the 124th General 707
Assembly, and that the repeal of such Revised Code sections in 708
Section 2 of Sub. H.B. 85 of the 124th General Assembly was not to 709
be effective October 31, 2001. 710