

**As Passed by the House**

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**Sub. H. B. No. 288**

**Representatives Wagoner, Combs, Cassell, Latta, Stewart, J., Hartnett,  
Garrison, Coley, Collier, DeGeeter, Distel, Dolan, Domenick, Flowers, Gibbs,  
Hood, Hughes, Martin, McGregor, J., Reidelbach, Seitz, Willamowski**

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**A B I L L**

To amend sections 317.08, 1509.35, 1509.38, and 1  
5301.56 of the Revised Code to revise the statute 2  
governing the vesting of abandoned mineral rights 3  
and to allow the chairperson of the Oil and Gas 4  
Commission to appoint temporary members to the 5  
Commission from the Technical Advisory Council on 6  
Oil and Gas when a quorum of the Commission cannot 7  
be obtained. 8

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

**Section 1.** That sections 317.08, 1509.35, 1509.38, and 9  
5301.56 of the Revised Code be amended to read as follows: 10

**Sec. 317.08.** (A) Except as provided in divisions (C) and (D) 11  
of this section, the county recorder shall keep six separate sets 12  
of records as follows: 13

(1) A record of deeds, in which shall be recorded all deeds 14  
and other instruments of writing for the absolute and 15  
unconditional sale or conveyance of lands, tenements, and 16  
hereditaments; all notices as provided in sections 5301.47 to 17  
5301.56 of the Revised Code; all judgments or decrees in actions 18

brought under section 5303.01 of the Revised Code; all 19  
declarations and bylaws, and all amendments to declarations and 20  
bylaws, as provided in Chapter 5311. of the Revised Code; 21  
affidavits as provided in ~~section~~ sections 5301.252 and 5301.56 of 22  
the Revised Code; all certificates as provided in section 5311.17 23  
of the Revised Code; all articles dedicating archaeological 24  
preserves accepted by the director of the Ohio historical society 25  
under section 149.52 of the Revised Code; all articles dedicating 26  
nature preserves accepted by the director of natural resources 27  
under section 1517.05 of the Revised Code; all agreements for the 28  
registration of lands as archaeological or historic landmarks 29  
under section 149.51 or 149.55 of the Revised Code; all 30  
conveyances of conservation easements and agricultural easements 31  
under section 5301.68 of the Revised Code; all instruments 32  
extinguishing agricultural easements under section 901.21 or 33  
5301.691 of the Revised Code or pursuant to terms of such an 34  
easement granted to a charitable organization under section 35  
5301.68 of the Revised Code; all instruments or orders described 36  
in division (B)~~(1)(e)(ii)~~(2)(b) of section 5301.56 of the Revised 37  
Code; all no further action letters issued under section 122.654 38  
or 3746.11 of the Revised Code; all covenants not to sue issued 39  
under section 3746.12 of the Revised Code, including all covenants 40  
not to sue issued pursuant to section 122.654 of the Revised Code; 41  
any restrictions on the use of property contained in a no further 42  
action letter issued under section 122.654 of the Revised Code, 43  
any restrictions on the use of property identified pursuant to 44  
division (C)(3)(a) of section 3746.10 of the Revised Code, and any 45  
restrictions on the use of property contained in a deed or other 46  
instrument as provided in division (E) or (F) of section 3737.882 47  
of the Revised Code; any easement executed or granted under 48  
section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; 49  
any environmental covenant entered into in accordance with 50  
sections 5301.80 to 5301.92 of the Revised Code; all memoranda of 51

trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1521.26 of the Revised Code;

(2) A record of mortgages, in which shall be recorded all of the following:

(a) All mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;

(b) All executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;

(c) All options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;

(d) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum of it, that is presented for filing of record.

(3) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in

Chapter 5311. of the Revised Code;	83
(5) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;	84 85 86
(6) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.	87 88 89 90
(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, 5111.022, and 5311.18 of the Revised Code.	91 92 93 94 95 96 97 98 99 100 101 102
The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option.	103 104 105 106 107
(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in division (D) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments	108 109 110 111 112 113

listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 114  
section. The second set of records shall contain the instruments 115  
listed in division (A)(4) of this section. 116

(D) Except as provided in division (C) of this section, the 117  
county recorder shall keep a separate set of records containing 118  
all corrupt activity lien notices filed with the recorder pursuant 119  
to section 2923.36 of the Revised Code and a separate set of 120  
records containing all medicaid fraud lien notices filed with the 121  
recorder pursuant to section 2933.75 of the Revised Code. 122

**Sec. 1509.35.** (A) There is hereby created an oil and gas 123  
commission consisting of five members appointed by the governor. 124  
Terms of office shall be for five years, commencing on the 125  
fifteenth day of October and ending on the fourteenth day of 126  
October, except that the terms of the first five members of the 127  
board shall be for one, two, three, four, and five years, 128  
respectively, as designated by the governor at the time of the 129  
appointment. Each member shall hold office from the date of 130  
appointment until the end of the term for which the member was 131  
appointed. Any member appointed to fill a vacancy occurring prior 132  
to the expiration of the term for which the member's predecessor 133  
was appointed shall hold office for the remainder of such term. 134  
Any member shall continue in office subsequent to the expiration 135  
date of the member's term until a successor takes office, or until 136  
a period of sixty days has elapsed, whichever occurs first. Each 137  
vacancy occurring on the commission shall be filled by appointment 138  
within sixty days after the vacancy occurs. One of the appointees 139  
to the commission shall be a person who, by reason of the person's 140  
previous vocation, employment, or affiliations, can be classed as 141  
a representative of a major petroleum company. One of the 142  
appointees to the commission shall be a person who, by reason of 143  
the person's previous vocation, employment, or affiliations, can 144

be classed as a representative of the public. One of the 145  
appointees to the commission shall be a person who, by reason of 146  
the person's previous training and experience, can be classed as a 147  
representative of independent petroleum operators. One of the 148  
appointees to the commission shall be a person who, by reason of 149  
the person's previous training and experience, can be classed as 150  
one learned and experienced in oil and gas law. One of the 151  
appointees to the commission shall be a person who, by reason of 152  
the person's previous training and experience, can be classed as 153  
one learned and experienced in geology. Not more than three 154  
members shall be members of the same political party. This 155  
division does not apply to temporary members appointed under 156  
division (C) of this section. 157

(B) Three members constitute a quorum and no action of the 158  
commission is valid unless it has the concurrence of at least 159  
three members a majority of the members voting on that action. The 160  
commission shall keep a record of its proceedings. 161

(C) If the chairperson of the commission determines that a 162  
quorum cannot be obtained for the purpose of considering a matter 163  
that will be before the commission because of vacancies or recusal 164  
of its members, the chairperson may contact the technical advisory 165  
council on oil and gas created in section 1509.38 of the Revised 166  
Code and request a list of members of the council who may serve as 167  
temporary members of the commission. Using the list provided by 168  
the council, the chairperson may appoint temporary members to the 169  
commission. The appointment of temporary members shall be for only 170  
the matter for which a quorum cannot be obtained. The number of 171  
temporary members appointed by the chairperson shall not exceed 172  
the number that is necessary to obtain a quorum for the matter. A 173  
temporary member of the commission has the same authority, rights, 174  
and obligations as a member of the commission, including the right 175  
to compensation and other expenses as provided in this section. 176

The authority, rights, and obligations of a temporary member cease 177  
when the temporary member's service on the commission ends. 178

(D) Each member shall be paid an amount fixed pursuant to 179  
division (J) of section 124.15 of the Revised Code per diem when 180  
actually engaged in the performance of work as a member and when 181  
engaged in travel necessary in connection with such work. In 182  
addition to such compensation each member shall be reimbursed for 183  
all traveling, hotel, and other expenses necessarily incurred in 184  
the performance of work as a member. 185

(E) The commission shall select from among its members a 186  
chairperson, a vice-chairperson, and a secretary. These officers 187  
shall serve for terms of one year. 188

(F) The governor may remove any member of the commission from 189  
office for inefficiency, neglect of duty, malfeasance, 190  
misfeasance, or nonfeasance. 191

(G) The commission, in accordance with Chapter 119. of the 192  
Revised Code, shall adopt rules to govern its procedure. 193

**Sec. 1509.38.** There is hereby created in the division of 194  
mineral resources management a technical advisory council on oil 195  
and gas, which shall consist of eight members to be appointed by 196  
the governor with the advice and consent of the senate. Three 197  
members shall be independent oil or gas producers, operators, or 198  
their representatives, operating and producing primarily in this 199  
state, three members shall be oil or gas producers, operators, or 200  
their representatives having substantial oil and gas producing 201  
operations in this state and at least one other state, one member 202  
shall represent the public, and one member shall represent persons 203  
having landowners' royalty interests in oil and gas production. 204  
All members shall be residents of this state, and all members, 205  
except the members representing the public and persons having 206

landowners' royalty interests, shall have at least five years of 207  
practical or technical experience in oil or gas drilling and 208  
production. Not more than one member may represent any one 209  
company, producer, or operator. 210

Terms of office shall be for three years, commencing on the 211  
first day of February and ending on the thirty-first day of 212  
January. Each member shall hold office from the date of 213  
appointment until the end of the term for which the member was 214  
appointed. A vacancy in the office of a member shall be filled by 215  
the governor, with the advice and consent of the senate. Any 216  
member appointed to fill a vacancy occurring prior to the 217  
expiration of the term for which the member's predecessor was 218  
appointed shall hold office for the remainder of that term. Any 219  
member shall continue in office subsequent to the expiration date 220  
of the member's term until the member's successor takes office, or 221  
until a period of sixty days has elapsed, whichever occurs first. 222

The council shall select from among its members a 223  
chairperson, a vice-chairperson, and a secretary. All members are 224  
entitled to their actual and necessary expenses incurred in the 225  
performance of their duties as members, payable from the 226  
appropriations for the division. 227

The governor may remove any member for inefficiency, neglect 228  
of duty, or malfeasance in office. 229

The council shall hold at least one regular meeting in each 230  
quarter of a calendar year and shall keep a record of its 231  
proceedings. Special meetings may be called by the chairperson and 232  
shall be called by the chairperson upon receipt of a written 233  
request signed by two or more members of the council. A written 234  
notice of the time and place of each meeting shall be sent to each 235  
member of the council. Five members constitute a quorum, and no 236  
action of the council is valid unless five members concur. 237



The council, when requested by the chief of the division of mineral resources management, shall consult with and advise the chief and perform other duties that may be lawfully delegated to it by the chief. The council may participate in hearings held by the chief under this chapter and has powers of approval as provided in sections 1509.24 and 1509.25 of the Revised Code. The council shall conduct the activities required, and exercise the authority granted, under Chapter 1510. of the Revised Code.

The council, upon receiving a request from the chairperson of the oil and gas commission under division (C) of section 1509.35 of the Revised Code, immediately shall prepare and provide to the chairperson a list of its members who may serve as temporary members of the oil and gas commission as provided in that division.

**Sec. 5301.56.** (A) As used in this section:

(1) "Holder" means the record holder of a mineral interest, and any person who derives ~~his~~ the person's rights from, or has a common source with, the record holder and whose claim does not indicate, expressly or by clear implication, that it is adverse to the interest of the record holder.

(2) "Drilling or mining permit" means a permit issued under Chapter 1509., 1513., or 1514. of the Revised Code to the holder to drill an oil or gas well or to mine other minerals.

(3) "Mineral interest" means a fee interest in at least one mineral regardless of how the interest is created and of the form of the interest, which may be absolute or fractional or divided or undivided.

(4) "Mineral" means gas, oil, coal, coalbed methane gas, other gaseous, liquid, and solid hydrocarbons, sand, gravel, clay, shale, gypsum, halite, limestone, dolomite, sandstone, other

stone, metalliferous or nonmetalliferous ore, or another material 268  
or substance of commercial value that is excavated in a solid 269  
state from natural deposits on or in the earth. 270

(5) "Owner of the surface of the lands subject to the 271  
interest" includes the owner's successors and assignees. 272

~~(B)(1)~~ Any mineral interest held by any person, other than 273  
the owner of the surface of the lands subject to the interest, 274  
shall be deemed abandoned and vested in the owner of the surface, 275  
~~if~~ of the lands subject to the interest if the requirements 276  
established in division (E) of this section are satisfied and none 277  
of the following applies: 278

~~(a)(1)~~ The mineral interest is in coal, or in mining or other 279  
rights pertinent to or exercisable in connection with an interest 280  
in coal, as described in division (E) of section 5301.53 of the 281  
Revised Code. However, if a mineral interest includes both coal 282  
and other minerals that are not coal, the mineral interests that 283  
are not in coal may be deemed abandoned and vest in the owner of 284  
the surface of the lands subject to the interest. 285

~~(b)(2)~~ The mineral interest is held by the United States, 286  
this state, or any political subdivision, body politic, or agency 287  
of the United States or this state, as described in division (G) 288  
of section 5301.53 of the Revised Code. 289

~~(c)(3)~~ Within the ~~preceding~~ twenty years immediately 290  
preceding the date on which notice is served or published under 291  
division (E) of this section, one or more of the following has 292  
occurred: 293

~~(i)(a)~~ The mineral interest has been the subject of a title 294  
transaction that has been filed or recorded in the office of the 295  
county recorder of the county in which the lands are located. 296

~~(ii)(b)~~ There has been actual production or withdrawal of 297

minerals by the holder from the lands, from lands covered by a 298  
lease to which the mineral interest is subject, from a mine a 299  
portion of which is located beneath the lands, or, in the case of 300  
oil or gas, from lands pooled, unitized, or included in unit 301  
operations, under sections 1509.26 to 1509.28 of the Revised Code, 302  
in which the mineral interest is participating, provided that the 303  
instrument or order creating or providing for the pooling or 304  
unitization of oil or gas interests has been filed or recorded in 305  
the office of the county recorder of the county in which the lands 306  
that are subject to the pooling or unitization are located~~+~~. 307

~~(iii)~~(c) The mineral interest has been used in underground 308  
gas storage operations by the holder~~+~~. 309

~~(iv)~~(d) A drilling or mining permit has been issued to the 310  
holder, provided that an affidavit that states the name of the 311  
permit holder, the permit number, the type of permit, and a legal 312  
description of the lands affected by the permit has been filed or 313  
recorded, in accordance with section 5301.252 of the Revised Code, 314  
in the office of the county recorder of the county in which the 315  
lands are located~~+~~. 316

~~(v)~~(e) A claim to preserve the mineral interest has been 317  
filed in accordance with division (C) of this section~~+~~. 318

~~(vi)~~(f) In the case of a separated mineral interest, a 319  
separately listed tax parcel number has been created for the 320  
mineral interest in the county auditor's tax list and the county 321  
treasurer's duplicate tax list in the county in which the lands 322  
are located. 323

~~(2) A mineral interest shall not be deemed abandoned under 324  
division (B)(1) of this section because none of the circumstances 325  
described in that division apply, until three years from the 326  
effective date of this section.~~ 327

(C)(1) A claim to preserve a mineral interest from being 328

deemed abandoned under division (B)~~(1)~~ of this section may be 329  
filed for record by its holder. Subject to division (C)(3) of this 330  
section, the claim shall be filed and recorded in accordance with 331  
division (H) of this section and sections 317.18 to 317.201 and 332  
5301.52 of the Revised Code, and shall consist of a notice that 333  
does all of the following: 334

(a) States the nature of the mineral interest claimed and any 335  
recording information upon which the claim is based; 336

(b) Otherwise complies with section 5301.52 of the Revised 337  
Code; 338

(c) States that the holder does not intend to abandon, but 339  
instead to preserve, ~~his~~ the holder's rights in the mineral 340  
interest. 341

(2) A claim that complies with division (C)(1) of this 342  
section or, if applicable, divisions (C)(1) and (3) of this 343  
section preserves the rights of all holders of a mineral interest 344  
in the same lands. 345

(3) Any holder of an interest for use in underground gas 346  
storage operations may preserve ~~his~~ the holder's interest, and 347  
those of any lessor of the interest, by a single claim, that 348  
defines the boundaries of the storage field or pool and its 349  
formations, without describing each separate interest claimed. The 350  
claim is prima-facie evidence of the use of each separate interest 351  
in underground gas storage operations. 352

(D)(1) A mineral interest may be preserved indefinitely from 353  
being deemed abandoned under division (B)~~(1)~~ of this section by 354  
the occurrence of any of the circumstances described in division 355  
(B)~~(1)~~~~(e)~~(3) of this section, including, but not limited to, 356  
successive filings of claims to preserve mineral interests under 357  
division (C) of this section. 358

(2) The filing of a claim to preserve a mineral interest 359  
under division (C) of this section does not affect the right of a 360  
lessor of an oil or gas lease to obtain its forfeiture under 361  
section 5301.332 of the Revised Code. 362

(E) Before a mineral interest becomes vested under division 363  
(B) of this section in the owner of the surface of the lands 364  
subject to the interest, the owner of the surface of the lands 365  
subject to the interest shall do both of the following: 366

(1) Serve notice by certified mail, return receipt requested, 367  
to each holder or each holder's successors or assignees, at the 368  
last known address of each, of the owner's intent to declare the 369  
mineral interest abandoned. If service of notice cannot be 370  
completed to any holder, the owner shall publish notice of the 371  
owner's intent to declare the mineral interest abandoned at least 372  
once in a newspaper of general circulation in each county in which 373  
the land that is subject to the interest is located. The notice 374  
shall contain all of the information specified in division (F) of 375  
this section. 376

(2) At least thirty, but not later than sixty days after the 377  
date on which the notice required under division (E)(1) of this 378  
section is served or published, as applicable, file in the office 379  
of the county recorder of each county in which the surface of the 380  
land that is subject to the interest is located an affidavit of 381  
abandonment that contains all of the information specified in 382  
division (G) of this section. 383

(F) The notice required under division (E)(1) of this section 384  
shall contain all of the following: 385

(1) The name of each holder and the holder's successors and 386  
assignees, as applicable; 387

(2) A description of the surface of the land that is subject 388  
to the mineral interest. The description shall include the volume 389

and page number of the recorded deed or other recorded instrument 390  
under which the owner of the surface of the lands claims title or 391  
otherwise satisfies the requirements established in division 392  
(A)(3) of section 5301.52 of the Revised Code. 393

(3) A description of the mineral interest to be abandoned. 394  
The description shall include the volume and page number of the 395  
recorded instrument on which the mineral interest is based. 396

(4) A statement attesting that nothing specified in division 397  
(B)(3) of this section has occurred within the twenty years 398  
immediately preceding the date on which notice is served or 399  
published under division (E) of this section; 400

(5) A statement of the intent of the owner of the surface of 401  
the lands subject to the mineral interest to file in the office of 402  
the county recorder an affidavit of abandonment at least thirty, 403  
but not later than sixty days after the date on which notice is 404  
served or published, as applicable. 405

(G) An affidavit of abandonment shall contain all of the 406  
following: 407

(1) A statement that the person filing the affidavit is the 408  
owner of the surface of the lands subject to the interest; 409

(2) The volume and page number of the recorded instrument on 410  
which the mineral interest is based; 411

(3) A statement that the mineral interest has been abandoned 412  
pursuant to division (B) of this section; 413

(4) A recitation of the facts constituting the abandonment; 414

(5) A statement that notice was served on each holder or each 415  
holder's successors or assignees or published in accordance with 416  
division (E) of this section. 417

(H)(1) If a holder or a holder's successors or assignees 418  
claim that the mineral interest that is the subject of a notice 419

under division (E) of this section has not been abandoned, the 420  
holder or the holder's successors or assignees, not later than 421  
sixty days after the date on which the notice was served or 422  
published, as applicable, shall file in the office of the county 423  
recorder of each county where the land that is subject to the 424  
mineral interest is located one of the following: 425

(a) A claim to preserve the mineral interest in accordance 426  
with division (C) of this section; 427

(b) An affidavit that identifies an event described in 428  
division (B)(3) of this section that has occurred within the 429  
twenty years immediately preceding the date on which the notice 430  
was served or published under division (E) of this section. 431

The holder or the holder's successors or assignees shall 432  
notify the person who served or published the notice under 433  
division (E) of this section of the filing under this division. 434

(2) If a holder or a holder's successors or assignees who 435  
claim that the mineral interest that is the subject of a notice 436  
under division (E) of this section has not been abandoned fails to 437  
file a claim to preserve the mineral interest, files such a claim 438  
more than sixty days after the date on which the notice was served 439  
or published under division (E) of this section, fails to file an 440  
affidavit that identifies an event described in division (B)(3) of 441  
this section that has occurred within the twenty years immediately 442  
preceding the date on which the notice was served or published 443  
under division (E) of this section, or files such an affidavit 444  
more than sixty days after the date on which the notice was served 445  
or published under that division, the owner of the surface of the 446  
lands subject to the interest who is seeking to have the interest 447  
deemed abandoned and vested in the owner shall cause the county 448  
recorder of each applicable county to memorialize the record on 449  
which the severed mineral interest is based with the following: 450

"This mineral interest abandoned pursuant to affidavit of 451  
abandonment recorded in volume . . . . , page . . . . ." 452

Immediately after the county recorder memorializes the 453  
record, the mineral interest shall vest in the owner of the 454  
surface of the lands formerly subject to the interest, and the 455  
record of the mineral interest shall cease to be notice to the 456  
public of the existence of the mineral interest or of any rights 457  
under it. In addition, the record shall not be received as 458  
evidence in any court in this state on behalf of the former holder 459  
or the former holder's successors or assignees against the owner 460  
of the surface of the lands formerly subject to the interest. 461  
However, the abandonment and vesting of a mineral interest 462  
pursuant to divisions (E) to (I) of this section only shall be 463  
effective as to the property of the owner that filed the affidavit 464  
of abandonment under division (E) of this section. 465

(I) For purposes of a recording under this section, a county 466  
recorder shall charge the fee established under section 317.32 of 467  
the Revised Code. 468

A county recorder who uses microfilm as provided under 469  
section 9.01 of the Revised Code may require the memorial "This 470  
mineral interest abandoned pursuant to affidavit of abandonment 471  
recorded in volume . . . . , page . . . . ." to be located on the 472  
affidavit of abandonment instead of the record on which the 473  
severed mineral interest is based, and the affidavit may be 474  
recorded under section 317.08 of the Revised Code. 475

**Section 2.** That existing sections 317.08, 1509.35, 1509.38, 476  
and 5301.56 of the Revised Code are hereby repealed. 477