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—

A B I L L

To amend sections 135.353 and 5739.01 and to enact 1
sections 135.804, 135.805, 135.806, and 135.807 of 2
the Revised Code to authorize boards of county 3
commissioners to establish property tax payment 4
linked deposit programs to assist senior citizens 5
and permanently and totally disabled citizens in 6
paying property taxes on their homesteads, and to 7
change who pays sales or use taxes when employment 8
service personnel are supplied by the purchaser to 9
a third party as an employment service. 10

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

Section 1. That sections 135.353 and 5739.01 be amended and 11

sections 135.804, 135.805, 135.806, and 135.807 of the Revised Code be enacted to read as follows:

Sec. 135.353. (A) In addition to the investments specified in section 135.35 of the Revised Code, the investing authority of a county may do ~~both~~ all of the following:

~~(A)(1)~~ Invest inactive or public moneys in linked deposits as authorized by resolution adopted pursuant to section 135.80 or 135.801 of the Revised Code;

~~(B)(2)~~ Invest inactive or public moneys in linked deposits as authorized by resolution adopted pursuant to section 135.805 of the Revised Code for a term considered appropriate by the investing authority, but not exceeding fifteen years, which investment may be renewed for up to two additional terms with each additional term not exceeding fifteen years.

(3) Invest inactive moneys in certificates of deposit in accordance with all of the following:

~~(1)(a)~~ The inactive moneys initially are deposited with an eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority.

~~(2)(b)~~ For the investing authority depositing the inactive moneys pursuant to division ~~(B)(1)(A)(3)(a)~~ of this section, the eligible public depository selected pursuant to that division invests the inactive moneys in certificates of deposit of one or more federally insured banks or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division ~~(B)(2)(A)(3)(b)~~ of this section shall be insured by federal deposit insurance.

~~(3)(c)~~ For the investing authority depositing the inactive moneys pursuant to division ~~(B)(1)(A)(3)(a)~~ of this section, the

eligible public depository selected pursuant to that division acts 42
as custodian of the certificates of deposit described in division 43
~~(B)(2)(A)(3)(b)~~ of this section. 44

~~(4)(d)~~ At the same time that the eligible public depository 45
selected in accordance with division ~~(B)(1)(A)(3)(a)~~ of this 46
section invests the deposit received pursuant to that division in 47
the certificates of deposit described in division ~~(B)(2)(A)(3)(b)~~ 48
of this section, and the certificates of deposit are issued by the 49
bank or savings and loan association, the eligible public 50
depository receives an amount of deposits from customers of other 51
federally insured financial institutions, wherever located, that 52
are equal to or greater than the amount initially deposited by the 53
investing authority pursuant to division ~~(B)(1)(A)(3)(a)~~ of this 54
section. 55

~~(C)(B)~~ Inactive moneys deposited or invested in accordance 56
with division ~~(B)(A)(3)~~ of this section are not subject to any 57
pledging requirements described in section 135.181 or 135.37 of 58
the Revised Code. 59

Sec. 135.804. As used in sections 135.804 to 135.807 of the 60
Revised Code: 61

(A) "Taxes" has the same meaning as in section 323.01 of the 62
Revised Code. 63

(B) "Eligible borrower" means a person meeting all of the 64
following: 65

(1) The person is the owner of a homestead that is not 66
charged with more than two years' worth of certified delinquent 67
taxes. 68

(2) The person had total income in the year prior to 69
submitting an application for a reduced rate loan under a property 70
tax payment linked deposit program of the lesser of fifty thousand 71

dollars or the total income limit established pursuant to section 135.805 of the Revised Code by the board of county commissioners as an eligibility requirement for participation in a property tax payment linked deposit program. 72
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(3) The person meets all other eligibility requirements established pursuant to section 135.805 of the Revised Code by the board of county commissioners for participation in a property tax payment linked deposit program. 76
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(C) "Eligible lending institution" means a financial institution that meets all of the following: 80
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(1) The financial institution is eligible to make loans to individuals that are secured by mortgages, including mortgages commonly known as reverse mortgages. 82
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(2) The financial institution has an office located within the territorial limits of the county. 85
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(3) The financial institution is an eligible public depository described in section 135.32 of the Revised Code into which the county's investing authority may deposit the public moneys of the county. 87
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(4) The financial institution has entered into an agreement described in division (B)(4) of section 135.805 of the Revised Code with the investing authority of the county to participate in the property tax payment linked deposit program. 91
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(D) "Homestead" means either of the following: 95

(1) A dwelling, including a unit in a multiple-unit dwelling and a manufactured home or mobile home taxed as real property pursuant to division (B) of section 4503.06 of the Revised Code, owned and occupied as a home by an individual whose domicile is in this state and who has not acquired ownership from a person, other than the individual's spouse, related by consanguinity or affinity 96
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for the purpose of qualifying for a property tax payment linked
deposit program.

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(2) A unit in a housing cooperative that is occupied as a
home, but not owned, by an individual whose domicile is in this
state.

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The homestead shall include so much of the land surrounding
it, not exceeding one acre, as is reasonably necessary for the use
of the dwelling or unit as a home. An owner includes a holder of
one of the several estates in fee, a vendee in possession under a
purchase agreement or a land contract, a mortgagor, a life tenant,
one or more tenants with a right of survivorship, tenants in
common, and a settlor of a revocable inter vivos trust holding the
title to a homestead occupied by the settlor as of right under the
trust.

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(E) "Housing cooperative" means a housing complex of at least
two hundred fifty units that is owned and operated by a nonprofit
corporation that issues a share of the corporation's stock to an
individual, entitling the individual to live in a unit of the
complex, and collects a monthly maintenance fee from the
individual to maintain, operate, and pay the taxes of the complex.

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(F) "Investing authority" and "public moneys" have the same
meanings as in section 135.31 of the Revised Code.

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(G) "Lien certificate" means the certificate described in
section 135.807 of the Revised Code.

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(H) "Old age and survivors benefits received pursuant to the
'Social Security Act'" or "tier I railroad retirement benefits
received pursuant to the 'Railroad Retirement Act'" means:

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(1) Old age benefits payable under the social security or
railroad retirement laws in effect on the last day of the calendar
year prior to the year for which a reduced rate loan under a

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property tax payment linked deposit program is applied for, or, if 132
no such benefits are payable that year, old age benefits payable 133
the first succeeding year in which old age benefits under the 134
social security or railroad retirement laws are payable, except in 135
those cases where a change in social security or railroad 136
retirement benefits results in a reduction in income. 137

(2) The lesser of: 138

(a) Survivors benefits payable under the social security or 139
railroad retirement laws in effect on the last day of the calendar 140
year prior to the year for which a reduced rate loan under a 141
property tax payment linked deposit program is applied for, or, if 142
no such benefits are payable that year, survivors benefits payable 143
the first succeeding year in which survivors benefits are payable; 144
or 145

(b) Old age benefits of the deceased spouse, as determined 146
under division (H)(1) of this section, upon which the surviving 147
spouse's survivors benefits are based under the social security or 148
railroad retirement laws, except in those cases where a change in 149
benefits would cause a reduction in income. 150

Survivors benefits are those described in division (H)(2)(b) 151
of this section only if the deceased spouse received old age 152
benefits in the year in which the deceased spouse died. If the 153
deceased spouse did not receive old age benefits in the year in 154
which the deceased spouse died, then survivors benefits are those 155
described in division (H)(2)(a) of this section. 156

(I) "Permanently and totally disabled" means a person who, on 157
the first day of January of the year that a reduced rate loan 158
under a property tax payment linked deposit program is applied 159
for, has some impairment in body or mind that makes the person 160
unable to work at any substantially remunerative employment that 161
the person reasonably is able to perform and that will, with 162

reasonable probability, continue for an indefinite period of at
least twelve months without any present indication of recovery
therefrom or has been certified as permanently and totally
disabled by a state or federal agency having the function of so
classifying persons.

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(J) "Property tax payment linked deposit program" means a
county-wide program authorized under section 135.805 of the
Revised Code and established by the board of county commissioners
of a county pursuant to that section.

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(K) "Sixty-five years of age or older" means a person who has
attained age sixty-four prior to the first day of January of the
year of application for a reduced rate loan under a property tax
payment linked deposit program.

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(L) "Total income" means the adjusted gross income of the
owner and the owner's spouse for the year preceding the year in
which application for a reduced rate loan under a property tax
payment linked deposit program is made, as determined under the
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as
amended, adjusted as follows:

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(1) Subtract the amount of disability benefits included in
adjusted gross income, but not to exceed fifty-two hundred
dollars;

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(2) Add old age and survivors benefits received pursuant to
the "Social Security Act" that are not included in adjusted gross
income;

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(3) Add retirement, pension, annuity, or other retirement
payments or benefits not included in adjusted gross income;

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(4) Add tier I and tier II railroad retirement benefits
received pursuant to the "Railroad Retirement Act," 50 Stat. 307,
45 U.S.C.A. 228;

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(5) Add interest on federal, state, and local government obligations; 193
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(6) For a person who received a reduced rate loan under a property tax payment linked deposit program for a prior year on the basis of being permanently and totally disabled and whose current application for a reduced rate loan is made on the basis of age, subtract the following amount: 195
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(a) If the person received disability benefits that were not included in adjusted gross income in the year preceding the first year in which the person applied for a reduced rate loan on the basis of age, subtract an amount equal to the disability benefits the person received in that preceding year, to the extent included in total income in the current year and not subtracted under division (L)(1) of this section in the current year; 200
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(b) If the person received disability benefits that were included in adjusted gross income in the year preceding the first year in which the person applied for a reduced rate loan on the basis of age, subtract an amount equal to the amount of disability benefits that were subtracted pursuant to division (L)(1) of this section in that preceding year, to the extent included in total income in the current year and not subtracted under division (L)(1) of this section in the current year. 207
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Disability benefits that are paid by the department of veterans affairs or a branch of the armed forces of the United States on account of an injury or disability shall not be included in total income. 215
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Sec. 135.805. (A) The general assembly finds that many low to moderate income senior citizens and permanently and totally disabled citizens face financial hardship and find it difficult to timely pay property taxes on their homesteads, which can lead to 219
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delinquencies, penalties, declines in tax receipts, foreclosures, 223
a loss of stable and affordable housing, a loss of neighborhoods 224
and communities, and a decline in property values. Accordingly, it 225
is declared to be the public policy of the state through property 226
tax payment linked deposit programs established by counties to 227
provide a source of low-cost funds for lending purposes to assist 228
these citizens in timely paying property taxes on their 229
homesteads. 230

(B) A board of county commissioners, by resolution, may 231
establish for the benefit of persons sixty-five years of age or 232
older, or persons who are permanently and totally disabled, or 233
both groups of persons, a property tax payment linked deposit 234
program. The program shall authorize the investing authority of 235
the county, in accordance with division (A)(2) of section 135.353 236
of the Revised Code, to place certificates of deposit at up to 237
three per cent below market rates with an eligible lending 238
institution, provided that the eligible lending institution agrees 239
to lend the value of such deposit to eligible borrowers at up to 240
three per cent below the present borrowing rate applicable to each 241
eligible borrower. The resolution shall include requirements, 242
parameters, limitations, and other provisions that are consistent 243
with sections 135.804 to 135.807 of the Revised Code and are 244
necessary to establish and carry out the property tax payment 245
linked deposit program, including, but not limited to, all of the 246
following: 247

(1) Eligibility requirements for borrowers who may receive 248
reduced rate loans under the property tax payment linked deposit 249
program, including both of the following: 250

(a) A total income limit for a borrower to be eligible for 251
such a loan; 252

(b) An indebtedness limit that a borrower may not exceed to 253

be eligible for such a loan, under which the sum of all recorded 254
liens on the homestead plus the amount of the reduced rate loan 255
cannot exceed eighty per cent of the homestead's true value as 256
most recently determined by the county auditor. 257

(2) Application procedures for eligible borrowers and 258
eligible lending institutions wishing to participate in the 259
property tax payment linked deposit program; 260

(3) Review procedures for applications and criteria for 261
acceptance or rejection of applications for reduced rate loans 262
under the property tax payment linked deposit program; 263

(4) Necessary agreements between the eligible lending 264
institution and the investing authority of the county to carry out 265
the purposes of the property tax payment linked deposit program, 266
including procedures for the payment directly to the county 267
treasurer by the eligible lending institution of the property 268
taxes due on the homestead and delivery by the county treasurer to 269
the eligible lending institution of the lien certificate as 270
provided in section 135.807 of the Revised Code; 271

(5) Annual reports regarding the operation of the property 272
tax payment linked deposit program to be made by the investing 273
authority to the board of county commissioners. 274

(C) A board of county commissioners may appropriate funds 275
from the general fund of the county or any other lawfully 276
available funds of the county for the purpose of defraying some or 277
all of the closing costs and expenses of reduced rate loans made 278
by eligible lending institutions to eligible borrowers pursuant to 279
the property tax payment linked deposit program. 280

(D) The county and its investing authority and the board of 281
county commissioners are not liable to any eligible lending 282
institution in any manner for the payment of the principal or 283
interest on any reduced rate loan made under the property tax 284

payment linked deposit program, and any delay in payment or 285
default on the part of any borrower does not in any manner affect 286
the deposit agreement between the eligible lending institution and 287
the investing authority or board of county commissioners. 288

Sec. 135.806. Upon placement of a certificate of deposit with 289
an eligible lending institution pursuant to an agreement described 290
in section 135.805 of the Revised Code, the eligible lending 291
institution shall do both of the following: 292

(A) Lend funds pursuant to the agreement to an eligible 293
borrower; 294

(B) Comply fully with the requirements of sections 135.804 to 295
135.807 of the Revised Code. 296

Sec. 135.807. (A) A property tax payment linked deposit 297
program shall provide for the delivery of a lien certificate to an 298
eligible lending institution making payment to the county 299
treasurer, pursuant to a loan agreement between the eligible 300
lending institution and eligible borrower, of some or all of the 301
taxes then due on the homestead of that eligible borrower. 302

(B)(1) To ensure uniformity among all counties, the tax 303
commissioner shall prescribe the form for a lien certificate 304
delivered pursuant to division (A) of this section, which form 305
shall include the identity of the homestead, the eligible 306
borrower, the eligible lending institution, the amount of taxes 307
paid by that eligible lending institution, and the tax year for 308
which the taxes were paid. The tax commissioner shall distribute 309
the forms to the county treasurers of all counties in which a 310
property tax payment linked deposit program is established. 311

(2) A county treasurer shall use the lien certificate form 312
prescribed by the tax commissioner, except that, prior to the time 313
that a lien certificate form is prescribed and the forms are 314

distributed by the tax commissioner, the form shall be prepared by 315
the county treasurer of the county, contain the information 316
required by division (B)(1) of this section, and include the 317
following sentence: "This lien certificate is delivered pursuant 318
to section 135.807 of the Revised Code and vests in the eligible 319
lending institution the first lien held previously by the state 320
and its taxing districts for the amount of taxes paid by the 321
eligible lending institution, together with any and all unpaid 322
interest thereon." 323

(C)(1) The delivery of the lien certificate pursuant to 324
division (A) of this section vests in the eligible lending 325
institution the first lien held previously by the state and its 326
taxing districts for the amount of the taxes paid by the eligible 327
lending institution, together with any unpaid interest thereon 328
from the date of delivery at the interest rate specified in the 329
loan agreement between the eligible lending institution and the 330
eligible borrower. The lien is superior to any subsequent tax 331
liens. 332

(2) Subject to division (C)(3) of this section, the lien 333
certificate delivered pursuant to division (A) of this section is 334
superior to all other liens and encumbrances upon the homestead 335
described in that lien certificate, and the lien continues in full 336
force and effect until the amount of all taxes paid by the 337
eligible lending institution, together with any unpaid interest 338
thereon, has been repaid to the eligible lending institution. 339

(3) With respect to the priority as among first liens of the 340
state and its taxing districts, the priority is determined by the 341
date that the first liens of the state and its taxing districts 342
attached pursuant to section 323.11 of the Revised Code, with 343
first priority to the earliest attached lien and each immediately 344
subsequent priority based upon the next earliest attached lien. 345

(D) The eligible lending institution may record the lien certificate or memorandum thereof as a mortgage on the land in the office of the county recorder of the county in which the homestead is situated. The county recorder shall record the certificate in the record of mortgages provided in division (B) of section 317.08 of the Revised Code and shall index the certificate in the indexes provided for under section 317.18 of the Revised Code. If the lien subsequently is canceled, the cancellation also shall be recorded by the county recorder. When a loan is repaid in full, the eligible financial institution shall promptly record the full payment and cancel or otherwise release the lien. On repayment of the loan in full, the lien certificate shall be null and void.

Sec. 5739.01. As used in this chapter: 358

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form. 359
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(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever: 364
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(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted; 368
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(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; 372
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(3) All transactions by which: 374

(a) An item of tangible personal property is or is to be 375

repaired, except property, the purchase of which would not be	376
subject to the tax imposed by section 5739.02 of the Revised Code;	377
(b) An item of tangible personal property is or is to be	378
installed, except property, the purchase of which would not be	379
subject to the tax imposed by section 5739.02 of the Revised Code	380
or property that is or is to be incorporated into and will become	381
a part of a production, transmission, transportation, or	382
distribution system for the delivery of a public utility service;	383
(c) The service of washing, cleaning, waxing, polishing, or	384
painting a motor vehicle is or is to be furnished;	385
(d) Until August 1, 2003, industrial laundry cleaning	386
services are or are to be provided and, on and after August 1,	387
2003, laundry and dry cleaning services are or are to be provided;	388
(e) Automatic data processing, computer services, or	389
electronic information services are or are to be provided for use	390
in business when the true object of the transaction is the receipt	391
by the consumer of automatic data processing, computer services,	392
or electronic information services rather than the receipt of	393
personal or professional services to which automatic data	394
processing, computer services, or electronic information services	395
are incidental or supplemental. Notwithstanding any other	396
provision of this chapter, such transactions that occur between	397
members of an affiliated group are not sales. An affiliated group	398
means two or more persons related in such a way that one person	399
owns or controls the business operation of another member of the	400
group. In the case of corporations with stock, one corporation	401
owns or controls another if it owns more than fifty per cent of	402
the other corporation's common stock with voting rights.	403
(f) Telecommunications service, including prepaid calling	404
service, prepaid wireless calling service, or ancillary service,	405
is or is to be provided, but not including coin-operated telephone	406

service;	407
(g) Landscaping and lawn care service is or is to be provided;	408 409
(h) Private investigation and security service is or is to be provided;	410 411
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	412 413
(j) Building maintenance and janitorial service is or is to be provided;	414 415
(k) Employment service is or is to be provided;	416
(l) Employment placement service is or is to be provided;	417
(m) Exterminating service is or is to be provided;	418
(n) Physical fitness facility service is or is to be provided;	419 420
(o) Recreation and sports club service is or is to be provided.	421 422
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	423 424
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	425 426 427 428 429 430 431 432
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for	433 434 435

transportation provided by an ambulance service, by a transit bus, 436
as defined in section 5735.01 of the Revised Code, and 437
transportation provided by a citizen of the United States holding 438
a certificate of public convenience and necessity issued under 49 439
U.S.C. 41102; 440

(s) On and after August 1, 2003, motor vehicle towing service 441
is or is to be provided. As used in this division, "motor vehicle 442
towing service" means the towing or conveyance of a wrecked, 443
disabled, or illegally parked motor vehicle. 444

(t) On and after August 1, 2003, snow removal service is or 445
is to be provided. As used in this division, "snow removal 446
service" means the removal of snow by any mechanized means, but 447
does not include the providing of such service by a person that 448
has less than five thousand dollars in sales of such service 449
during the calendar year. 450

(4) All transactions by which printed, imprinted, 451
overprinted, lithographic, multilithic, blueprinted, photostatic, 452
or other productions or reproductions of written or graphic matter 453
are or are to be furnished or transferred; 454

(5) The production or fabrication of tangible personal 455
property for a consideration for consumers who furnish either 456
directly or indirectly the materials used in the production of 457
fabrication work; and include the furnishing, preparing, or 458
serving for a consideration of any tangible personal property 459
consumed on the premises of the person furnishing, preparing, or 460
serving such tangible personal property. Except as provided in 461
section 5739.03 of the Revised Code, a construction contract 462
pursuant to which tangible personal property is or is to be 463
incorporated into a structure or improvement on and becoming a 464
part of real property is not a sale of such tangible personal 465
property. The construction contractor is the consumer of such 466

tangible personal property, provided that the sale and 467
installation of carpeting, the sale and installation of 468
agricultural land tile, the sale and erection or installation of 469
portable grain bins, or the provision of landscaping and lawn care 470
service and the transfer of property as part of such service is 471
never a construction contract. 472

As used in division (B)(5) of this section: 473

(a) "Agricultural land tile" means fired clay or concrete 474
tile, or flexible or rigid perforated plastic pipe or tubing, 475
incorporated or to be incorporated into a subsurface drainage 476
system appurtenant to land used or to be used directly in 477
production by farming, agriculture, horticulture, or floriculture. 478
The term does not include such materials when they are or are to 479
be incorporated into a drainage system appurtenant to a building 480
or structure even if the building or structure is used or to be 481
used in such production. 482

(b) "Portable grain bin" means a structure that is used or to 483
be used by a person engaged in farming or agriculture to shelter 484
the person's grain and that is designed to be disassembled without 485
significant damage to its component parts. 486

(6) All transactions in which all of the shares of stock of a 487
closely held corporation are transferred, if the corporation is 488
not engaging in business and its entire assets consist of boats, 489
planes, motor vehicles, or other tangible personal property 490
operated primarily for the use and enjoyment of the shareholders; 491

(7) All transactions in which a warranty, maintenance or 492
service contract, or similar agreement by which the vendor of the 493
warranty, contract, or agreement agrees to repair or maintain the 494
tangible personal property of the consumer is or is to be 495
provided; 496

(8) The transfer of copyrighted motion picture films used 497

solely for advertising purposes, except that the transfer of such 498
films for exhibition purposes is not a sale. 499

(9) On and after August 1, 2003, all transactions by which 500
tangible personal property is or is to be stored, except such 501
property that the consumer of the storage holds for sale in the 502
regular course of business. 503

Except as provided in this section, "sale" and "selling" do 504
not include transfers of interest in leased property where the 505
original lessee and the terms of the original lease agreement 506
remain unchanged, or professional, insurance, or personal service 507
transactions that involve the transfer of tangible personal 508
property as an inconsequential element, for which no separate 509
charges are made. 510

(C) "Vendor" means the person providing the service or by 511
whom the transfer effected or license given by a sale is or is to 512
be made or given and, for sales described in division (B)(3)(i) of 513
this section, the telecommunications service vendor that provides 514
the nine hundred telephone service; if two or more persons are 515
engaged in business at the same place of business under a single 516
trade name in which all collections on account of sales by each 517
are made, such persons shall constitute a single vendor. 518

Physicians, dentists, hospitals, and veterinarians who are 519
engaged in selling tangible personal property as received from 520
others, such as eyeglasses, mouthwashes, dentifrices, or similar 521
articles, are vendors. Veterinarians who are engaged in 522
transferring to others for a consideration drugs, the dispensing 523
of which does not require an order of a licensed veterinarian or 524
physician under federal law, are vendors. 525

(D)(1) "Consumer" means the person for whom the service is 526
provided, to whom the transfer effected or license given by a sale 527
is or is to be made or given, to whom the service described in 528

division (B)(3)(f) or (i) of this section is charged, or to whom 529
the admission is granted. 530

(2) Physicians, dentists, hospitals, and blood banks operated 531
by nonprofit institutions and persons licensed to practice 532
veterinary medicine, surgery, and dentistry are consumers of all 533
tangible personal property and services purchased by them in 534
connection with the practice of medicine, dentistry, the rendition 535
of hospital or blood bank service, or the practice of veterinary 536
medicine, surgery, and dentistry. In addition to being consumers 537
of drugs administered by them or by their assistants according to 538
their direction, veterinarians also are consumers of drugs that 539
under federal law may be dispensed only by or upon the order of a 540
licensed veterinarian or physician, when transferred by them to 541
others for a consideration to provide treatment to animals as 542
directed by the veterinarian. 543

(3) A person who performs a facility management, or similar 544
service contract for a contractee is a consumer of all tangible 545
personal property and services purchased for use in connection 546
with the performance of such contract, regardless of whether title 547
to any such property vests in the contractee. The purchase of such 548
property and services is not subject to the exception for resale 549
under division (E)(1) of this section. 550

(4)(a) In the case of a person who purchases printed matter 551
for the purpose of distributing it or having it distributed to the 552
public or to a designated segment of the public, free of charge, 553
that person is the consumer of that printed matter, and the 554
purchase of that printed matter for that purpose is a sale. 555

(b) In the case of a person who produces, rather than 556
purchases, printed matter for the purpose of distributing it or 557
having it distributed to the public or to a designated segment of 558
the public, free of charge, that person is the consumer of all 559

tangible personal property and services purchased for use or 560
consumption in the production of that printed matter. That person 561
is not entitled to claim exemption under division (B)(42)(f) of 562
section 5739.02 of the Revised Code for any material incorporated 563
into the printed matter or any equipment, supplies, or services 564
primarily used to produce the printed matter. 565

(c) The distribution of printed matter to the public or to a 566
designated segment of the public, free of charge, is not a sale to 567
the members of the public to whom the printed matter is 568
distributed or to any persons who purchase space in the printed 569
matter for advertising or other purposes. 570

(5) A person who makes sales of any of the services listed in 571
division (B)(3) of this section is the consumer of any tangible 572
personal property used in performing the service. The purchase of 573
that property is not subject to the resale exception under 574
division (E)(1) of this section. 575

(6) A person who engages in highway transportation for hire 576
is the consumer of all packaging materials purchased by that 577
person and used in performing the service, except for packaging 578
materials sold by such person in a transaction separate from the 579
service. 580

(E) "Retail sale" and "sales at retail" include all sales, 581
except those in which the purpose of the consumer is to resell the 582
thing transferred or benefit of the service provided, by a person 583
engaging in business, in the form in which the same is, or is to 584
be, received by the person. 585

(F) "Business" includes any activity engaged in by any person 586
with the object of gain, benefit, or advantage, either direct or 587
indirect. "Business" does not include the activity of a person in 588
managing and investing the person's own funds. 589

(G) "Engaging in business" means commencing, conducting, or 590

continuing in business, and liquidating a business when the 591
liquidator thereof holds itself out to the public as conducting 592
such business. Making a casual sale is not engaging in business. 593

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 594
(3) of this section, means the total amount of consideration, 595
including cash, credit, property, and services, for which tangible 596
personal property or services are sold, leased, or rented, valued 597
in money, whether received in money or otherwise, without any 598
deduction for any of the following: 599

(i) The vendor's cost of the property sold; 600

(ii) The cost of materials used, labor or service costs, 601
interest, losses, all costs of transportation to the vendor, all 602
taxes imposed on the vendor, including the tax imposed under 603
Chapter 5751. of the Revised Code, and any other expense of the 604
vendor; 605

(iii) Charges by the vendor for any services necessary to 606
complete the sale; 607

(iv) On and after August 1, 2003, delivery charges. As used 608
in this division, "delivery charges" means charges by the vendor 609
for preparation and delivery to a location designated by the 610
consumer of tangible personal property or a service, including 611
transportation, shipping, postage, handling, crating, and packing. 612

(v) Installation charges; 613

(vi) Credit for any trade-in. 614

(b) "Price" includes consideration received by the vendor 615
from a third party, if the vendor actually receives the 616
consideration from a party other than the consumer, and the 617
consideration is directly related to a price reduction or discount 618
on the sale; the vendor has an obligation to pass the price 619
reduction or discount through to the consumer; the amount of the 620

consideration attributable to the sale is fixed and determinable 621
by the vendor at the time of the sale of the item to the consumer; 622
and one of the following criteria is met: 623

(i) The consumer presents a coupon, certificate, or other 624
document to the vendor to claim a price reduction or discount 625
where the coupon, certificate, or document is authorized, 626
distributed, or granted by a third party with the understanding 627
that the third party will reimburse any vendor to whom the coupon, 628
certificate, or document is presented; 629

(ii) The consumer identifies the consumer's self to the 630
seller as a member of a group or organization entitled to a price 631
reduction or discount. A preferred customer card that is available 632
to any patron does not constitute membership in such a group or 633
organization. 634

(iii) The price reduction or discount is identified as a 635
third party price reduction or discount on the invoice received by 636
the consumer, or on a coupon, certificate, or other document 637
presented by the consumer. 638

(c) "Price" does not include any of the following: 639

(i) Discounts, including cash, term, or coupons that are not 640
reimbursed by a third party that are allowed by a vendor and taken 641
by a consumer on a sale; 642

(ii) Interest, financing, and carrying charges from credit 643
extended on the sale of tangible personal property or services, if 644
the amount is separately stated on the invoice, bill of sale, or 645
similar document given to the purchaser; 646

(iii) Any taxes legally imposed directly on the consumer that 647
are separately stated on the invoice, bill of sale, or similar 648
document given to the consumer. For the purpose of this division, 649
the tax imposed under Chapter 5751. of the Revised Code is not a 650

tax directly on the consumer, even if the tax or a portion thereof
is separately stated.

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(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this
section, any discount allowed by an automobile manufacturer to its
employee, or to the employee of a supplier, on the purchase of a
new motor vehicle from a new motor vehicle dealer in this state.

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(2) In the case of a sale of any new motor vehicle by a new
motor vehicle dealer, as defined in section 4517.01 of the Revised
Code, in which another motor vehicle is accepted by the dealer as
part of the consideration received, "price" has the same meaning
as in division (H)(1) of this section, reduced by the credit
afforded the consumer by the dealer for the motor vehicle received
in trade.

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(3) In the case of a sale of any watercraft or outboard motor
by a watercraft dealer licensed in accordance with section
1547.543 of the Revised Code, in which another watercraft,
watercraft and trailer, or outboard motor is accepted by the
dealer as part of the consideration received, "price" has the same
meaning as in division (H)(1) of this section, reduced by the
credit afforded the consumer by the dealer for the watercraft,
watercraft and trailer, or outboard motor received in trade. As
used in this division, "watercraft" includes an outdrive unit
attached to the watercraft.

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(I) "Receipts" means the total amount of the prices of the
sales of vendors, provided that cash discounts allowed and taken
on sales at the time they are consummated are not included, minus
any amount deducted as a bad debt pursuant to section 5739.121 of
the Revised Code. "Receipts" does not include the sale price of
property returned or services rejected by consumers when the full
sale price and tax are refunded either in cash or by credit.

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(J) "Place of business" means any location at which a person

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engages in business. 682

(K) "Premises" includes any real property or portion thereof 683
upon which any person engages in selling tangible personal 684
property at retail or making retail sales and also includes any 685
real property or portion thereof designated for, or devoted to, 686
use in conjunction with the business engaged in by such person. 687

(L) "Casual sale" means a sale of an item of tangible 688
personal property that was obtained by the person making the sale, 689
through purchase or otherwise, for the person's own use and was 690
previously subject to any state's taxing jurisdiction on its sale 691
or use, and includes such items acquired for the seller's use that 692
are sold by an auctioneer employed directly by the person for such 693
purpose, provided the location of such sales is not the 694
auctioneer's permanent place of business. As used in this 695
division, "permanent place of business" includes any location 696
where such auctioneer has conducted more than two auctions during 697
the year. 698

(M) "Hotel" means every establishment kept, used, maintained, 699
advertised, or held out to the public to be a place where sleeping 700
accommodations are offered to guests, in which five or more rooms 701
are used for the accommodation of such guests, whether the rooms 702
are in one or several structures. 703

(N) "Transient guests" means persons occupying a room or 704
rooms for sleeping accommodations for less than thirty consecutive 705
days. 706

(O) "Making retail sales" means the effecting of transactions 707
wherein one party is obligated to pay the price and the other 708
party is obligated to provide a service or to transfer title to or 709
possession of the item sold. "Making retail sales" does not 710
include the preliminary acts of promoting or soliciting the retail 711
sales, other than the distribution of printed matter which 712

displays or describes and prices the item offered for sale, nor
does it include delivery of a predetermined quantity of tangible
personal property or transportation of property or personnel to or
from a place where a service is performed, regardless of whether
the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility
service" means that property that is to be incorporated into and
will become a part of the consumer's production, transmission,
transportation, or distribution system and that retains its
classification as tangible personal property after such
incorporation; fuel or power used in the production, transmission,
transportation, or distribution system; and tangible personal
property used in the repair and maintenance of the production,
transmission, transportation, or distribution system, including
only such motor vehicles as are specially designed and equipped
for such use. Tangible personal property and services used
primarily in providing highway transportation for hire are not
used directly in the rendition of a public utility service.

(Q) "Refining" means removing or separating a desirable
product from raw or contaminated materials by distillation or
physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting
together parts to form a product, but do not include packaging a
product.

(S) "Manufacturing operation" means a process in which
materials are changed, converted, or transformed into a different
state or form from which they previously existed and includes
refining materials, assembling parts, and preparing raw materials
and parts by mixing, measuring, blending, or otherwise committing
such materials or parts to the manufacturing process.
"Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of

others' data, including keypunching or similar data entry services 775
together with verification thereof, or providing access to 776
computer equipment for the purpose of processing data. 777

(b) "Computer services" means providing services consisting 778
of specifying computer hardware configurations and evaluating 779
technical processing characteristics, computer programming, and 780
training of computer programmers and operators, provided in 781
conjunction with and to support the sale, lease, or operation of 782
taxable computer equipment or systems. 783

(c) "Electronic information services" means providing access 784
to computer equipment by means of telecommunications equipment for 785
the purpose of either of the following: 786

(i) Examining or acquiring data stored in or accessible to 787
the computer equipment; 788

(ii) Placing data into the computer equipment to be retrieved 789
by designated recipients with access to the computer equipment. 790

(d) "Automatic data processing, computer services, or 791
electronic information services" shall not include personal or 792
professional services. 793

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 794
section, "personal and professional services" means all services 795
other than automatic data processing, computer services, or 796
electronic information services, including but not limited to: 797

(a) Accounting and legal services such as advice on tax 798
matters, asset management, budgetary matters, quality control, 799
information security, and auditing and any other situation where 800
the service provider receives data or information and studies, 801
alters, analyzes, interprets, or adjusts such material; 802

(b) Analyzing business policies and procedures; 803

(c) Identifying management information needs; 804

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;	865 866
(f) Internet access service;	867
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	868 869 870 871 872 873 874 875
(h) Ancillary service;	876
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	877 878
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	879 880 881 882 883
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	884 885 886 887 888
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	889 890 891
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	892 893
(d) "Vertical service" means an ancillary service that is	894

offered in connection with one or more telecommunications 895
services, which offers advanced calling features that allow 896
customers to identify callers and manage multiple calls and call 897
connections, including conference bridging service. 898

(e) "Voice mail service" means an ancillary service that 899
enables the customer to store, send, or receive recorded messages. 900
"Voice mail service" does not include any vertical services that 901
the customer may be required to have in order to utilize the voice 902
mail service. 903

(3) "900 service" means an inbound toll telecommunications 904
service purchased by a subscriber that allows the subscriber's 905
customers to call in to the subscriber's prerecorded announcement 906
or live service, and which is typically marketed under the name 907
"900" service and any subsequent numbers designated by the federal 908
communications commission. "900 service" does not include the 909
charge for collection services provided by the seller of the 910
telecommunications service to the subscriber, or services or 911
products sold by the subscriber to the subscriber's customer. 912

(4) "Prepaid calling service" means the right to access 913
exclusively telecommunications services, which must be paid for in 914
advance and which enables the origination of calls using an access 915
number or authorization code, whether manually or electronically 916
dialed, and that is sold in predetermined units of dollars of 917
which the number declines with use in a known amount. 918

(5) "Prepaid wireless calling service" means a 919
telecommunications service that provides the right to utilize 920
mobile telecommunications service as well as other 921
non-telecommunications services, including the download of digital 922
products delivered electronically, and content and ancillary 923
services, that must be paid for in advance and that is sold in 924
predetermined units of dollars of which the number declines with 925

use in a known amount. 926

(6) "Value-added non-voice data service" means a 927
telecommunications service in which computer processing 928
applications are used to act on the form, content, code, or 929
protocol of the information or data primarily for a purpose other 930
than transmission, conveyance, or routing. 931

(7) "Coin-operated telephone service" means a 932
telecommunications service paid for by inserting money into a 933
telephone accepting direct deposits of money to operate. 934

(8) "Customer" has the same meaning as in section 5739.034 of 935
the Revised Code. 936

(BB) "Laundry and dry cleaning services" means removing soil 937
or dirt from towels, linens, articles of clothing, or other fabric 938
items that belong to others and supplying towels, linens, articles 939
of clothing, or other fabric items. "Laundry and dry cleaning 940
services" does not include the provision of self-service 941
facilities for use by consumers to remove soil or dirt from 942
towels, linens, articles of clothing, or other fabric items. 943

(CC) "Magazines distributed as controlled circulation 944
publications" means magazines containing at least twenty-four 945
pages, at least twenty-five per cent editorial content, issued at 946
regular intervals four or more times a year, and circulated 947
without charge to the recipient, provided that such magazines are 948
not owned or controlled by individuals or business concerns which 949
conduct such publications as an auxiliary to, and essentially for 950
the advancement of the main business or calling of, those who own 951
or control them. 952

(DD) "Landscaping and lawn care service" means the services 953
of planting, seeding, sodding, removing, cutting, trimming, 954
pruning, mulching, aerating, applying chemicals, watering, 955
fertilizing, and providing similar services to establish, promote, 956

or control the growth of trees, shrubs, flowers, grass, ground
cover, and other flora, or otherwise maintaining a lawn or
landscape grown or maintained by the owner for ornamentation or
other nonagricultural purpose. However, "landscaping and lawn care
service" does not include the providing of such services by a
person who has less than five thousand dollars in sales of such
services during the calendar year.

(EE) "Private investigation and security service" means the
performance of any activity for which the provider of such service
is required to be licensed pursuant to Chapter 4749. of the
Revised Code, or would be required to be so licensed in performing
such services in this state, and also includes the services of
conducting polygraph examinations and of monitoring or overseeing
the activities on or in, or the condition of, the consumer's home,
business, or other facility by means of electronic or similar
monitoring devices. "Private investigation and security service"
does not include special duty services provided by off-duty police
officers, deputy sheriffs, and other peace officers regularly
employed by the state or a political subdivision.

(FF) "Information services" means providing conversation,
giving consultation or advice, playing or making a voice or other
recording, making or keeping a record of the number of callers,
and any other service provided to a consumer by means of a nine
hundred telephone call, except when the nine hundred telephone
call is the means by which the consumer makes a contribution to a
recognized charity.

(GG) "Research and development" means designing, creating, or
formulating new or enhanced products, equipment, or manufacturing
processes, and also means conducting scientific or technological
inquiry and experimentation in the physical sciences with the goal
of increasing scientific knowledge which may reveal the bases for
new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means 989
capitalized tangible personal property, and leased personal 990
property that would be capitalized if purchased, used by a person 991
primarily to perform research and development. Tangible personal 992
property primarily used in testing, as defined in division (A)(4) 993
of section 5739.011 of the Revised Code, or used for recording or 994
storing test results, is not qualified research and development 995
equipment unless such property is primarily used by the consumer 996
in testing the product, equipment, or manufacturing process being 997
created, designed, or formulated by the consumer in the research 998
and development activity or in recording or storing such test 999
results. 1000

(II) "Building maintenance and janitorial service" means 1001
cleaning the interior or exterior of a building and any tangible 1002
personal property located therein or thereon, including any 1003
services incidental to such cleaning for which no separate charge 1004
is made. However, "building maintenance and janitorial service" 1005
does not include the providing of such service by a person who has 1006
less than five thousand dollars in sales of such service during 1007
the calendar year. 1008

(JJ) "Employment service" means providing or supplying 1009
personnel, on a temporary or long-term basis, to perform work or 1010
labor under the supervision or control of another, when the 1011
personnel so provided or supplied receive their wages, salary, or 1012
other compensation from the provider or supplier of the employment 1013
service or from a third party that provided or supplied the 1014
personnel to the provider or supplier. "Employment service" does 1015
not include: 1016

(1) Acting as a contractor or subcontractor, where the 1017
personnel performing the work are not under the direct control of 1018
the purchaser. 1019

(2) Medical and health care services.	1020
(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.	1021 1022 1023 1024
(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.	1025 1026
<u>(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.</u>	1027 1028 1029 1030 1031
(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.	1032 1033 1034
(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.	1035 1036 1037 1038 1039
(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.	1040 1041 1042 1043 1044 1045 1046
(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees,	1047 1048 1049

monthly minimum fees, and other similar fees and dues, by a 1050
recreation and sports club, which entitles the member to use the 1051
facilities of the organization. "Recreation and sports club" means 1052
an organization that has ownership of, or controls or leases on a 1053
continuing, long-term basis, the facilities used by its members 1054
and includes an aviation club, gun or shooting club, yacht club, 1055
card club, swimming club, tennis club, golf club, country club, 1056
riding club, amateur sports club, or similar organization. 1057

(OO) "Livestock" means farm animals commonly raised for food 1058
or food production, and includes but is not limited to cattle, 1059
sheep, goats, swine, and poultry. "Livestock" does not include 1060
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 1061
animals for use in laboratories or for exhibition, or other 1062
animals not commonly raised for food or food production. 1063

(PP) "Livestock structure" means a building or structure used 1064
exclusively for the housing, raising, feeding, or sheltering of 1065
livestock, and includes feed storage or handling structures and 1066
structures for livestock waste handling. 1067

(QQ) "Horticulture" means the growing, cultivation, and 1068
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 1069
and nursery stock. As used in this division, "nursery stock" has 1070
the same meaning as in section 927.51 of the Revised Code. 1071

(RR) "Horticulture structure" means a building or structure 1072
used exclusively for the commercial growing, raising, or 1073
overwintering of horticultural products, and includes the area 1074
used for stocking, storing, and packing horticultural products 1075
when done in conjunction with the production of those products. 1076

(SS) "Newspaper" means an unbound publication bearing a title 1077
or name that is regularly published, at least as frequently as 1078
biweekly, and distributed from a fixed place of business to the 1079
public in a specific geographic area, and that contains a 1080

substantial amount of news matter of international, national, or 1081
local events of interest to the general public. 1082

(TT) "Professional racing team" means a person that employs 1083
at least twenty full-time employees for the purpose of conducting 1084
a motor vehicle racing business for profit. The person must 1085
conduct the business with the purpose of racing one or more motor 1086
racing vehicles in at least ten competitive professional racing 1087
events each year that comprise all or part of a motor racing 1088
series sanctioned by one or more motor racing sanctioning 1089
organizations. A "motor racing vehicle" means a vehicle for which 1090
the chassis, engine, and parts are designed exclusively for motor 1091
racing, and does not include a stock or production model vehicle 1092
that may be modified for use in racing. For the purposes of this 1093
division: 1094

(1) A "competitive professional racing event" is a motor 1095
vehicle racing event sanctioned by one or more motor racing 1096
sanctioning organizations, at which aggregate cash prizes in 1097
excess of eight hundred thousand dollars are awarded to the 1098
competitors. 1099

(2) "Full-time employee" means an individual who is employed 1100
for consideration for thirty-five or more hours a week, or who 1101
renders any other standard of service generally accepted by custom 1102
or specified by contract as full-time employment. 1103

(UU)(1) "Lease" or "rental" means any transfer of the 1104
possession or control of tangible personal property for a fixed or 1105
indefinite term, for consideration. "Lease" or "rental" includes 1106
future options to purchase or extend, and agreements described in 1107
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 1108
the amount of consideration may be increased or decreased by 1109
reference to the amount realized upon the sale or disposition of 1110
the property. "Lease" or "rental" does not include: 1111

(a) A transfer of possession or control of tangible personal 1112
property under a security agreement or a deferred payment plan 1113
that requires the transfer of title upon completion of the 1114
required payments; 1115

(b) A transfer of possession or control of tangible personal 1116
property under an agreement that requires the transfer of title 1117
upon completion of required payments and payment of an option 1118
price that does not exceed the greater of one hundred dollars or 1119
one per cent of the total required payments; 1120

(c) Providing tangible personal property along with an 1121
operator for a fixed or indefinite period of time, if the operator 1122
is necessary for the property to perform as designed. For purposes 1123
of this division, the operator must do more than maintain, 1124
inspect, or set-up the tangible personal property. 1125

(2) "Lease" and "rental," as defined in division (UU) of this 1126
section, shall not apply to leases or rentals that exist before 1127
June 26, 2003. 1128

(3) "Lease" and "rental" have the same meaning as in division 1129
(UU)(1) of this section regardless of whether a transaction is 1130
characterized as a lease or rental under generally accepted 1131
accounting principles, the Internal Revenue Code, Title XIII of 1132
the Revised Code, or other federal, state, or local laws. 1133

(VV) "Mobile telecommunications service" has the same meaning 1134
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 1135
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 1136
on and after August 1, 2003, includes related fees and ancillary 1137
services, including universal service fees, detailed billing 1138
service, directory assistance, service initiation, voice mail 1139
service, and vertical services, such as caller ID and three-way 1140
calling. 1141

(WW) "Certified service provider" has the same meaning as in 1142

section 5740.01 of the Revised Code. 1143

(XX) "Satellite broadcasting service" means the distribution 1144
or broadcasting of programming or services by satellite directly 1145
to the subscriber's receiving equipment without the use of ground 1146
receiving or distribution equipment, except the subscriber's 1147
receiving equipment or equipment used in the uplink process to the 1148
satellite, and includes all service and rental charges, premium 1149
channels or other special services, installation and repair 1150
service charges, and any other charges having any connection with 1151
the provision of the satellite broadcasting service. 1152

(YY) "Tangible personal property" means personal property 1153
that can be seen, weighed, measured, felt, or touched, or that is 1154
in any other manner perceptible to the senses. For purposes of 1155
this chapter and Chapter 5741. of the Revised Code, "tangible 1156
personal property" includes motor vehicles, electricity, water, 1157
gas, steam, and prewritten computer software. 1158

(ZZ) "Direct mail" means printed material delivered or 1159
distributed by United States mail or other delivery service to a 1160
mass audience or to addressees on a mailing list provided by the 1161
consumer or at the direction of the consumer when the cost of the 1162
items are not billed directly to the recipients. "Direct mail" 1163
includes tangible personal property supplied directly or 1164
indirectly by the consumer to the direct mail vendor for inclusion 1165
in the package containing the printed material. "Direct mail" does 1166
not include multiple items of printed material delivered to a 1167
single address. 1168

(AAA) "Computer" means an electronic device that accepts 1169
information in digital or similar form and manipulates it for a 1170
result based on a sequence of instructions. 1171

(BBB) "Computer software" means a set of coded instructions 1172
designed to cause a computer or automatic data processing 1173

equipment to perform a task. 1174

(CCC) "Delivered electronically" means delivery of computer 1175
software from the seller to the purchaser by means other than 1176
tangible storage media. 1177

(DDD) "Prewritten computer software" means computer software, 1178
including prewritten upgrades, that is not designed and developed 1179
by the author or other creator to the specifications of a specific 1180
purchaser. The combining of two or more prewritten computer 1181
software programs or prewritten portions thereof does not cause 1182
the combination to be other than prewritten computer software. 1183
"Prewritten computer software" includes software designed and 1184
developed by the author or other creator to the specifications of 1185
a specific purchaser when it is sold to a person other than the 1186
purchaser. If a person modifies or enhances computer software of 1187
which the person is not the author or creator, the person shall be 1188
deemed to be the author or creator only of such person's 1189
modifications or enhancements. Prewritten computer software or a 1190
prewritten portion thereof that is modified or enhanced to any 1191
degree, where such modification or enhancement is designed and 1192
developed to the specifications of a specific purchaser, remains 1193
prewritten computer software; provided, however, that where there 1194
is a reasonable, separately stated charge or an invoice or other 1195
statement of the price given to the purchaser for the modification 1196
or enhancement, the modification or enhancement shall not 1197
constitute prewritten computer software. 1198

(EEE)(1) "Food" means substances, whether in liquid, 1199
concentrated, solid, frozen, dried, or dehydrated form, that are 1200
sold for ingestion or chewing by humans and are consumed for their 1201
taste or nutritional value. "Food" does not include alcoholic 1202
beverages, dietary supplements, soft drinks, or tobacco. 1203

(2) As used in division (EEE)(1) of this section: 1204

(a) "Alcoholic beverages" means beverages that are suitable 1205
for human consumption and contain one-half of one per cent or more 1206
of alcohol by volume. 1207

(b) "Dietary supplements" means any product, other than 1208
tobacco, that is intended to supplement the diet and that is 1209
intended for ingestion in tablet, capsule, powder, softgel, 1210
gelcap, or liquid form, or, if not intended for ingestion in such 1211
a form, is not represented as conventional food for use as a sole 1212
item of a meal or of the diet; that is required to be labeled as a 1213
dietary supplement, identifiable by the "supplement facts" box 1214
found on the label, as required by 21 C.F.R. 101.36; and that 1215
contains one or more of the following dietary ingredients: 1216

(i) A vitamin; 1217

(ii) A mineral; 1218

(iii) An herb or other botanical; 1219

(iv) An amino acid; 1220

(v) A dietary substance for use by humans to supplement the 1221
diet by increasing the total dietary intake; 1222

(vi) A concentrate, metabolite, constituent, extract, or 1223
combination of any ingredient described in divisions 1224
(EEE)(2)(b)(i) to (v) of this section. 1225

(c) "Soft drinks" means nonalcoholic beverages that contain 1226
natural or artificial sweeteners. "Soft drinks" does not include 1227
beverages that contain milk or milk products, soy, rice, or 1228
similar milk substitutes, or that contains greater than fifty per 1229
cent vegetable or fruit juice by volume. 1230

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 1231
tobacco, or any other item that contains tobacco. 1232

(FFF) "Drug" means a compound, substance, or preparation, and 1233
any component of a compound, substance, or preparation, other than 1234

food, dietary supplements, or alcoholic beverages that is 1235
recognized in the official United States pharmacopoeia, official 1236
homeopathic pharmacopoeia of the United States, or official 1237
national formulary, and supplements to them; is intended for use 1238
in the diagnosis, cure, mitigation, treatment, or prevention of 1239
disease; or is intended to affect the structure or any function of 1240
the body. 1241

(GGG) "Prescription" means an order, formula, or recipe 1242
issued in any form of oral, written, electronic, or other means of 1243
transmission by a duly licensed practitioner authorized by the 1244
laws of this state to issue a prescription. 1245

(HHH) "Durable medical equipment" means equipment, including 1246
repair and replacement parts for such equipment, that can 1247
withstand repeated use, is primarily and customarily used to serve 1248
a medical purpose, generally is not useful to a person in the 1249
absence of illness or injury, and is not worn in or on the body. 1250
"Durable medical equipment" does not include mobility enhancing 1251
equipment. 1252

(III) "Mobility enhancing equipment" means equipment, 1253
including repair and replacement parts for such equipment, that is 1254
primarily and customarily used to provide or increase the ability 1255
to move from one place to another and is appropriate for use 1256
either in a home or a motor vehicle, that is not generally used by 1257
persons with normal mobility, and that does not include any motor 1258
vehicle or equipment on a motor vehicle normally provided by a 1259
motor vehicle manufacturer. "Mobility enhancing equipment" does 1260
not include durable medical equipment. 1261

(JJJ) "Prosthetic device" means a replacement, corrective, or 1262
supportive device, including repair and replacement parts for the 1263
device, worn on or in the human body to artificially replace a 1264
missing portion of the body, prevent or correct physical deformity 1265

or malfunction, or support a weak or deformed portion of the body. 1266
As used in this division, "prosthetic device" does not include 1267
corrective eyeglasses, contact lenses, or dental prosthesis. 1268

(KKK)(1) "Fractional aircraft ownership program" means a 1269
program in which persons within an affiliated group sell and 1270
manage fractional ownership program aircraft, provided that at 1271
least one hundred airworthy aircraft are operated in the program 1272
and the program meets all of the following criteria: 1273

(a) Management services are provided by at least one program 1274
manager within an affiliated group on behalf of the fractional 1275
owners. 1276

(b) Each program aircraft is owned or possessed by at least 1277
one fractional owner. 1278

(c) Each fractional owner owns or possesses at least a 1279
one-sixteenth interest in at least one fixed-wing program 1280
aircraft. 1281

(d) A dry-lease aircraft interchange arrangement is in effect 1282
among all of the fractional owners. 1283

(e) Multi-year program agreements are in effect regarding the 1284
fractional ownership, management services, and dry-lease aircraft 1285
interchange arrangement aspects of the program. 1286

(2) As used in division (KKK)(1) of this section: 1287

(a) "Affiliated group" has the same meaning as in division 1288
(B)(3)(e) of this section. 1289

(b) "Fractional owner" means a person that owns or possesses 1290
at least a one-sixteenth interest in a program aircraft and has 1291
entered into the agreements described in division (KKK)(1)(e) of 1292
this section. 1293

(c) "Fractional ownership program aircraft" or "program 1294
aircraft" means a turbojet aircraft that is owned or possessed by 1295

a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Section 2. That existing sections 135.353 and 5739.01 of the Revised Code are hereby repealed.

Section 3. The amendment by this act to division (JJ) of section 5739.01 of the Revised Code is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment goes into effect January 1, 2007.