

# AN ACT

To amend sections 5715.19, 5721.01, 5721.03, 5721.06, 5739.03, 5739.033, 5739.24, and 5741.02 and to enact sections 323.65, 323.66, 323.67, 323.68, 323.69, 323.70, 323.71, 323.72, 323.73, 323.74, 323.75, 323.76, 323.77, 323.78, 5323.01, 5323.02, 5323.03, 5323.04, and 5323.99 of the Revised Code to reduce the time period for designating delinquent vacant lands subject to judicial foreclosure, to provide an expedited foreclosure procedure for unoccupied lands that have delinquent tax charges, to establish an appeal procedure for filing complaints against "rollback" exemption determinations, to extend, under certain circumstances, the date by which vendors with a certain level of limited Ohio sales must begin destination-based sourcing under the sales tax law, and to require a residential rental property owner to file with the county auditor certain information about the owner and the property.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 5715.19, 5721.01, 5721.03, 5721.06, 5739.03, 5739.033, 5739.24, and 5741.02 be amended and sections 323.65, 323.66, 323.67, 323.68, 323.69, 323.70, 323.71, 323.72, 323.73, 323.74, 323.75, 323.76, 323.77, 323.78, 5323.01, 5323.02, 5323.03, 5323.04, and 5323.99 of the Revised Code be enacted to read as follows:

Sec. 323.65. As used in sections 323.65 to 323.78 of the Revised Code:

(A) "Abandoned land" means delinquent lands or delinquent vacant lands, including any improvements on the lands, that are unoccupied and that first appeared on the abandoned land list compiled under division (C) of section 323.67 of the Revised Code, or the delinquent tax list or delinquent vacant land tax list compiled under section 5721.03 of the Revised Code, at

whichever of the following times is applicable:

(1) In the case of lands other than agricultural lands, at any time after the county auditor makes the certification of the delinquent land list under section 5721.011 of the Revised Code;

(2) In the case of agricultural lands, at any time after two years after the county auditor makes the certification of the delinquent land list under section 5721.011 of the Revised Code.

(B) "Agricultural land" means lands on the agricultural land tax list maintained under section 5713.33 of the Revised Code.

(C) "Clerk of court" means the clerk of the court of common pleas of the county in which specified abandoned land is located.

(D) "Delinquent lands" has the same meaning as in section 5721.01 of the Revised Code.

(E) "Delinquent vacant lands" means all lands that are delinquent lands and that are unimproved by any structure.

(F) "Impositions" means delinquent taxes, assessments, penalties, interest, costs, reasonable attorney's fees of a certificate holder, applicable and permissible costs of the prosecuting attorney of a county, and other permissible charges against abandoned land.

(G)(1) "Unoccupied," with respect to a parcel of abandoned land, means any of the following:

(a) No building, structure, land, or other improvement that is subject to taxation and that is located on the parcel is physically inhabited as a dwelling;

(b) No trade or business is actively being conducted on the parcel by the owner, a tenant, or another party occupying the parcel pursuant to a lease or other legal authority, or in a building, structure, or other improvement that is subject to taxation and that is located on the parcel;

(c) The parcel is uninhabited and there are no signs that it is undergoing a change in tenancy and remains legally habitable, or that it is undergoing improvements, as indicated by an application for a building permit or other facts indicating that the parcel is experiencing ongoing improvements;

(d) In the case of delinquent vacant land, there is no permanent structure or improvement affixed on the land.

(2) For purposes of division (G)(1) of this section, it is prima-facie evidence and a rebuttable presumption that may be rebutted to the county board of revision that abandoned land is unoccupied if, at the time the county auditor makes the certification under section 5721.011 of the Revised Code, the abandoned land is not agricultural land, and two or more of the following apply:

(a) At the time of the inspection of the abandoned land by the county, municipal corporation, or township in which the abandoned land is located, no person, trade, or business inhabits, or is visibly present from an exterior inspection of, the abandoned land.

(b) No utility connections, including, but not limited to, water, sewer, natural gas, or electric connections, service the abandoned land, and no such utility connections are actively being billed by any utility provider regarding the abandoned land.

(c) The abandoned land is boarded up or otherwise sealed because, immediately prior to being boarded up or sealed, it was deemed by a political subdivision pursuant to its municipal, county, state, or federal authority to be open, vacant, or vandalized.

(H) "Community development organization" means a nonprofit corporation that is formed or organized under Chapter 1702. or 1724. of the Revised Code and to which both of the following apply:

(1) The organization is in good standing under law at the time the county auditor makes the certification under section 5721.011 of the Revised Code and has remained in good standing uninterrupted for at least the two years immediately preceding the time of that certification.

(2) As of the time the county auditor makes the certification under section 5721.011 of the Revised Code, the organization has received from the county, municipal corporation, or township in which abandoned land is located official authority or agreement by a duly authorized officer of that county, municipal corporation, or township to accept the owner's fee simple interest in the abandoned land and to the abandoned land being foreclosed, and that official authority or agreement had been filed with the county treasurer or county board of revision in a form that will reasonably confirm the county's, municipal corporation's, or township's assent to transfer the land to that community development organization under section 323.74 of the Revised Code.

(I) "Certificate holder" has the same meaning as in section 5721.30 of the Revised Code.

Sec. 323.66. (A) In lieu of utilizing the judicial foreclosure proceedings and other procedures and remedies available under sections 323.25 to 323.28 or under Chapter 5721., 5722., or 5723. of the Revised Code, a county board of revision created under section 5715.01 of the Revised Code, upon the board's initiative, expressed by resolution, may foreclose the state's lien for real estate taxes upon abandoned land in the county and, upon the complaint of a certificate holder, foreclose the lien of the certificate holder held under sections 5721.30 to 5721.43 of the Revised Code. The board

shall dispose of the abandoned land by public auction or by other conveyance in the manner prescribed by sections 323.65 to 323.78 of the Revised Code.

(B)(1) A county board of revision may adopt rules as are necessary to administer cases subject to its jurisdiction under Chapter 5715. or adjudicated under sections 323.65 to 323.78 of the Revised Code, as long as the rules are consistent with rules adopted by the tax commissioner under Chapter 5715. of the Revised Code. Rules adopted by a board shall be limited to rules relating to the scheduling and location of proceedings, case management, and practice forms.

(2) A county board of revision, upon any adjudication of foreclosure under sections 323.65 to 323.78 of the Revised Code, may prepare final orders of sale and deeds. For such purposes, the board may create its own order of sale and deed forms. The sheriff shall execute and deliver any forms prepared under this division in the manner prescribed in sections 323.65 to 323.78 of the Revised Code.

(C) In addition to all other duties and functions provided by law, under sections 323.65 to 323.78 of the Revised Code the clerk of court, in the same manner as in civil actions, shall provide summons and notice of hearings, maintain an official case file, docket all proceedings, and tax as costs all necessary actions in connection therewith in furtherance of the foreclosure of abandoned land under those sections. The county board of revision shall file with the clerk of court all resolutions and adjudications of the board, and the clerk shall docket and journalize all resolutions and adjudications so filed by the board. The clerk may utilize the court's existing journal or maintain a separate journal for purposes of sections 323.65 to 323.78 of the Revised Code. The resolutions and adjudications of the board shall not become effective until journalized by the clerk.

(D) For the purpose of efficiently and promptly implementing sections 323.65 to 323.78 of the Revised Code, the prosecuting attorney of the county, the county treasurer, the clerk of court of the county, the county auditor, and the sheriff of the county may promulgate rules, not inconsistent with sections 323.65 to 323.78 of the Revised Code, regarding practice forms, forms of notice for hearings and notice to parties, fees, publication, and other procedures customarily within their official purview and respective duties.

Sec. 323.67. (A) The county treasurer or a certificate holder, from the list compiled under division (C) of this section or the delinquent tax list or delinquent vacant land tax list compiled under section 5721.03 of the Revised Code, may identify and compile a list of the parcels in the county

that the treasurer or certificate holder determines to be abandoned lands suitable for disposition under sections 323.65 to 323.78 of the Revised Code. Those parcels may be identified in an affidavit directed to the county treasurer and executed by a duly authorized officer of the municipal corporation or township in which the parcel is located.

(B)(1) If a county treasurer compiles a list of parcels under division (A) of this section that the treasurer determines to be abandoned lands suitable for disposition under sections 323.65 to 323.78 of the Revised Code, the treasurer may declare by resolution that the delinquent taxes, interest, penalties, and charges levied on the abandoned lands on the list are uncollected, that the restoration of the abandoned lands to the tax list is of sufficient public interest to justify the expeditious foreclosure of the state's lien for the delinquent taxes, and that the abandoned lands, for those reasons, shall be offered for sale by public auction or otherwise conveyed pursuant to sections 323.65 to 323.78 of the Revised Code. The treasurer shall certify a copy of the resolution to the prosecuting attorney of the county served by the treasurer.

(2) If a certificate holder compiles a list of parcels under division (A) of this section that the certificate holder determines to be abandoned lands suitable for disposition under sections 323.65 to 323.78 of the Revised Code, the certificate holder may proceed under sections 323.68 and 323.69 of the Revised Code.

(C) For purposes of sections 323.65 to 323.78 of the Revised Code, the county auditor or county treasurer may compile or certify an abandoned land list in any manner and at such times as will give effect to the expedited foreclosure of abandoned land.

Sec. 323.68. (A)(1) If a county treasurer adopts a resolution under division (B) of section 323.67 of the Revised Code and certifies a copy of the resolution to the prosecuting attorney, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons having a legal or equitable ownership interest or other security interest of record in abandoned land appearing on the list compiled under division (A) of that section.

(2) If a certificate holder compiles a list of the parcels that the certificate holder determines to be abandoned land under division (A) of section 323.67 of the Revised Code, the certificate holder shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons having a legal or equitable ownership interest or other security interest of record in abandoned land appearing on the list.

(B) Notwithstanding section 5301.252 of the Revised Code, an affidavit

of a type described in that section shall not be considered a lien or encumbrance on the abandoned land, and the recording of an affidavit of a type described in that section shall not serve in any way to impede the bona fide purchaser status of the purchaser of any abandoned land sold at public auction under sections 323.65 to 323.78 of the Revised Code or of any other recipient of abandoned land transferred under those sections. However, any affiant who records an affidavit pursuant to section 5301.252 of the Revised Code shall be given notice and summons under sections 323.69 to 323.78 of the Revised Code in the same manner as any lienholder.

Sec. 323.69. (A) Upon the completion of the title search required by section 323.68 of the Revised Code, the prosecuting attorney, representing the county treasurer, or the certificate holder may file with the clerk of court a complaint for the foreclosure of each parcel of abandoned land appearing on the list compiled under division (A) of section 323.67 of the Revised Code, and for the equity of redemption on each parcel. The complaint shall name all parties having any interest of record in the abandoned land that was discovered in the title search.

(B)(1) In accordance with Civil Rule 4, the clerk of court promptly shall serve notice of the summons and the complaint filed under division (A) of this section to the last known address of the record owner of the abandoned land and to the last known address of each lienholder or other person having a legal or equitable ownership interest or security interest of record identified by the title search. The notice shall inform the addressee that delinquent taxes stand charged against the abandoned land; that the land will be sold at public auction or otherwise disposed of if not redeemed by the owner or other addressee; that the sale will occur at a date, time, and place, and in the manner prescribed in sections 323.65 to 323.78 of the Revised Code; that the owner or other addressee may redeem the land by paying the total of the impositions against the land within thirty days after the date on which service of process is perfected in accordance with Civil Rule 4, or may file within thirty days after that date a petition with the county board of revision requesting a hearing on the foreclosure; that the case is being prosecuted by the prosecuting attorney of the county in the name of the county treasurer for the county in which the abandoned land is located or by a certificate holder, whichever is applicable; of the name, address, and telephone number of the county board of revision before which the action is pending; of the board case number for the action, which shall be maintained in the official file and docket of the clerk of court; and that all subsequent pleadings, petitions, and papers associated with the case and filed by any interested party must be filed with the clerk of court and will become part of

the case file for the board.

(2) The notice required by division (B)(1) of this section also shall inform the addressee that the addressee may, at any time on or before the twentieth day after service of process is perfected, file a petition with the county board of revision requesting that the board dismiss the complaint and order that the abandoned land identified in the notice be removed from the list compiled under division (A) of section 323.67 of the Revised Code. The notice shall further inform the addressee that, upon filing such a petition to remove the abandoned land from that list, the abandoned land will be removed from the list and cannot thereafter be disposed of under sections 323.65 to 323.78 of the Revised Code, until the record owner of the abandoned land who is provided notice under division (B)(1) of this section sells or otherwise conveys the owner's ownership interest, and that any future attempts to collect delinquent taxes, interest, penalties, and charges owed with respect to that land and appearing on the delinquent tax list or delinquent vacant land tax list, whichever the case may be, will be conducted in accordance with the judicial foreclosure proceedings and other remedies and procedures prescribed under sections 323.25 to 323.28 or under Chapters 5721., 5722., and 5723. of the Revised Code until the record owner sells or otherwise conveys the owner's ownership interest.

(C) Subsequent pleadings, petitions, or papers associated with the case and filed with the clerk of court shall be served upon all parties of record in accordance with Civil Rules 4 and 5. Any inadvertent noncompliance with those rules does not serve to defeat or terminate the case, or subject the case to dismissal, as long as actual notice or service of filed papers is shown by a preponderance of the evidence or is acknowledged by the party charged with notice or service. The county board of revision may conduct evidentiary hearings on the sufficiency of process, service of process, or sufficiency of service of papers in any proceeding arising from a complaint filed under this section. Other than the notice and service provisions contained in Civil Rules 4 and 5, the Rules of Civil Procedure shall not be applicable to the proceedings of the board. Board practice shall be in accordance with the practice and rules of the board that are promulgated by the board under section 323.66 of the Revised Code and are not inconsistent with sections 323.65 to 323.78 of the Revised Code.

(D) At any time after a foreclosure action is filed under this section, the county board of revision may, upon its own motion, dismiss the case without prejudice if it determines that, given the complexity of the case or other circumstances, a court would be a more appropriate forum for the action.

Sec. 323.70. (A) Subject to this section and to sections 323.71 and 323.72 of the Revised Code, a county board of revision shall conduct a final hearing on the merits of a complaint filed under section 323.69 of the Revised Code not sooner than thirty days nor later than one hundred eighty days after the service of notice of summons and complaint has been perfected in accordance with Civil Rule 4.

(B) If, on or before the twentieth day after service of process is perfected under division (B) of section 323.69 of the Revised Code, the record owner, or a lienholder or other person having a legal or equitable ownership interest or security interest of record in abandoned land, files a petition with the county board of revision requesting that the board order that the complaint be dismissed and that the abandoned land be removed from the list compiled under division (A) of section 323.67 of the Revised Code, the board shall, without conducting a hearing on the matter, immediately dismiss the complaint for foreclosure of that land and order that the land be removed from the list. Thereafter, until the record owner sells or otherwise conveys the owner's ownership interest, any attempts to collect delinquent taxes, interest, penalties, and charges owed with respect to that land and appearing on the delinquent tax list or delinquent vacant land tax list, whichever the case may be, shall be conducted in accordance with the judicial foreclosure proceedings and other remedies and procedures prescribed under sections 323.25 to 323.28 or under Chapters 5721., 5722., and 5723. of the Revised Code.

Sec. 323.71. (A)(1) If the impositions against a parcel of abandoned land that is the subject of a complaint filed under section 323.69 of the Revised Code exceed the fair market value of that parcel as currently shown by the latest valuation by the auditor of the county in which the land is located, then the prosecuting attorney or the certificate holder, whichever is applicable, may notify the county board of revision in writing by filing a notice with the clerk of court that, in the prosecuting attorney's or certificate holder's opinion, based on the auditor's then-current valuation of the parcel of abandoned land, the impositions against that parcel exceed the fair market value of that parcel. The prosecuting attorney or certificate holder shall file this notice not later than fourteen days before the final hearing is conducted pursuant to section 323.70 of the Revised Code. After the clerk's receipt of the notice, the board shall schedule a hearing on the question of the valuation of the abandoned land, as prescribed in this section. The board shall give notice of the hearing in accordance with section 323.69 of the Revised Code. In addition to determining the valuation of the abandoned land at the hearing, the board also may adjudicate the ultimate disposition of

the case pursuant to section 323.72 of the Revised Code, if the notice of the hearing specifies that the hearing may adjudicate that ultimate disposition.

(2) A lienholder may file with the county board of revision a good faith appraisal of the parcel of abandoned land from a licensed professional appraiser and request a hearing under division (A)(1) of this section. If the lienholder shows by a preponderance of the evidence that the impositions against the parcel of abandoned land do not exceed the fair market value of that parcel as determined by the auditor's then-current valuation of that parcel, then the board may dismiss the complaint and may remove that abandoned land from the list compiled under division (A) of section 323.67 of the Revised Code.

(3) The county board of revision shall conduct a valuation hearing as provided in this section and shall make a factual finding as to whether the impositions against the parcel of abandoned land exceed or do not exceed the fair market value of that parcel as determined by the auditor's then-current valuation of that parcel. If the board finds that the impositions do not exceed the fair market value of that parcel as determined by the auditor's then-current valuation of that parcel, then the board shall determine whether the restoration of the abandoned land to the tax duplicate remains of sufficient public interest to justify adjudicating the case under sections 323.65 to 323.78 of the Revised Code. In making its determination under this division, the board may consider any of the following:

(a) The period of time in which the parcel has been tax delinquent;

(b) The likelihood of payment of the tax delinquency;

(c) The interest in the parcel by, or the input of, any affected municipal corporation, county, township, or community development organization;

(d) The existence of any land reutilization program authorized under Chapter 5722. of the Revised Code;

(e) Any other factors or testimony that the board determines will more expeditiously cause the abandoned land to be restored to the tax duplicate.

(4) If the county board of revision determines at a hearing held under division (A) of this section that the impositions against the parcel do not exceed the fair market value of that parcel as determined by the auditor's then-current valuation of that parcel, the board may, but is not required to, order that the complaint be dismissed and that the parcel be removed from the list compiled under division (A) of section 323.67 of the Revised Code, provided that, if the lienholder requests a hearing under division (A)(2) of this section and either does not appear at the hearing or does not supply the board with a good faith appraisal within the time and in the manner prescribed in this section, the complaint shall not be dismissed and the

parcel shall not be removed from the list.

(5) If the county board of revision determines at the hearing held under division (A) of this section that the impositions against the parcel exceed the fair market value of that parcel as determined by the auditor's then-current valuation of that parcel, or that the restoration of the abandoned land to the tax duplicate remains of sufficient public interest to justify adjudicating the case under sections 323.65 to 323.78 of the Revised Code, the board shall not dismiss the complaint nor order that the parcel be removed from the list compiled under division (A) of section 323.67 of the Revised Code and may proceed to hear and adjudicate the case pursuant to section 323.72 of the Revised Code.

(B) Any parcel of abandoned land for which the complaint is not dismissed and that is not removed from the list compiled under division (A) of section 323.67 of the Revised Code in accordance with division (A)(2) or (4) of this section, or pursuant to a dismissal petition filed under division (B) of section 323.70 of the Revised Code shall be disposed of as prescribed in sections 323.65 to 323.78 of the Revised Code.

(C) Notwithstanding sections 323.65 to 323.78 of the Revised Code to the contrary, for purposes of determining in any proceeding under those sections whether the total of the impositions against the abandoned land exceed the fair market value of the abandoned land, it is prima-facie evidence and a rebuttable presumption that may be rebutted to the county board of revision that the auditor's then-current valuation of that abandoned land is the fair market value of the land, regardless of whether an independent appraisal has been performed.

Sec. 323.72. (A) Within thirty days after service of process has been perfected pursuant to section 323.69 of the Revised Code, in the answer to a complaint filed under that section:

(1) The record owner or another person having a legal or equitable ownership interest in the abandoned land may plead only that the impositions shown by the notice to be due and outstanding have been paid in full, and may raise issues pertaining to service of process and the parcel's status as abandoned land;

(2) A lienholder or another person having a security interest of record in the abandoned land may plead that the impositions shown by the notice to be due and outstanding have been paid in full or, subject to division (C) of this section, that in order to preserve the lienholder's or other person's security interest of record in the land, the complaint should be dismissed and the abandoned land should be removed from the list compiled under division (A) of section 323.67 of the Revised Code and not disposed of as provided

in sections 323.65 to 323.78 of the Revised Code.

(B) If the record owner or another person having a legal or equitable ownership interest in a parcel of abandoned land timely files an answer with the county board of revision under division (A)(1) of this section, or if a lienholder or another person having a security interest of record in the abandoned land timely files an answer with the board under division (A)(2) of this section that asserts that the impositions have been paid in full, the board shall schedule a hearing for a date not sooner than thirty days, and not later than ninety days, after the board receives the answer. Upon scheduling the hearing, the board shall notify the person that filed the answer and all interested parties of the date, time, and place of the hearing, and shall conduct the hearing. The only questions to be considered at the hearing are whether those impositions have in fact been paid in full and, under division (A)(1) of this section, whether valid issues pertaining to service of process and the parcel's status as abandoned land have been raised. If the record owner, lienholder, or other person shows by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall dismiss the complaint and remove the parcel of abandoned land from the list compiled under division (A) of section 323.67 of the Revised Code, and that land shall not be offered for sale or otherwise conveyed under sections 323.65 to 323.78 of the Revised Code. If the record owner, lienholder, or other person fails to appear, or appears and fails to show by a preponderance of the evidence that all impositions against the parcel have been paid, the board shall proceed in the manner prescribed in section 323.73 of the Revised Code.

(C) If a lienholder or another person having a security interest of record in the abandoned land, other than the owner, timely files an answer under division (A)(2) of this section and requests that the complaint be dismissed and the parcel of land be removed from the list compiled under division (A) of section 323.67 of the Revised Code and not disposed of as provided in sections 323.65 to 323.78 of the Revised Code in order to preserve the lienholder's or other person's security interest, the county board of revision may approve the request if the board finds that the sale or other conveyance of the parcel of land under those sections would unreasonably jeopardize the lienholder's or other person's ability to enforce the security interest or to otherwise preserve the lienholder's or other person's security interest. The board may approve the request, by board order, without conducting a hearing, but shall not disapprove the request unless and until a hearing is held on the request and the board makes a ruling based on the available and submitted evidence of the parties. If the board approves the request without

a hearing, the board shall file the decision with the clerk of court, and the clerk shall send a notice of the decision to the lienholder or other person by ordinary mail. In order for a lienholder or other person having a security interest to show for purposes of this division that the parcel of abandoned land should be removed from the list in order "to preserve the lienholder's or other person's security interest," the lienholder or other person must make a minimum showing by a preponderance of the evidence pursuant to section 323.71 of the Revised Code that the impositions against the parcel of abandoned land do not exceed the fair market value of the abandoned land as determined by the auditor's then-current valuation of that parcel, which valuation is presumed, subject to rebuttal, to be the fair market value of the land.

(D) If an answer as described in division (B) or (C) of this section is filed and the county board of revision approves a request made under those divisions, regardless of whether a hearing is conducted under division (C) of this section, the board shall send notice of its approval to the prosecuting attorney or the certificate holder that filed the complaint for foreclosure, and shall dismiss the complaint and remove the abandoned land from the list compiled under division (A) of section 323.67 of the Revised Code. Thereafter, the land shall not be disposed of by sale or otherwise conveyed pursuant to sections 323.65 to 323.78 of the Revised Code unless the record owner, lienholder, or other person who filed the answer first consents to proceedings under those sections by filing written notice with the board. If a record owner, lienholder, or other person so consents, the proceedings may recommence as provided in sections 323.65 to 323.78 of the Revised Code with the reentry of the land on the list and the conducting of a new title search.

If the county board of revision does not, under division (A)(2) or (4) of section 323.71 of the Revised Code, dismiss the complaint and remove the abandoned land from the list compiled under division (A) of section 323.67 of the Revised Code or does not approve a request as described in division (B) or (C) of this section after conducting a hearing, the board shall proceed with the final hearing prescribed in section 323.70 of the Revised Code and file its decision on the complaint for foreclosure with the clerk of court. The clerk shall send written notice of the decision to the parties by ordinary mail or by certified mail, return receipt requested. If the board renders a decision ordering the foreclosure and forfeiture of the parcel of abandoned land, the parcel shall be disposed of under section 323.73 of the Revised Code.

Sec. 323.73. (A) Except as provided in division (G) of this section, a parcel of abandoned land that is to be disposed of under this section shall be

disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation in the county in which the land is located. The advertisement shall include the street address, if available, of the abandoned land to be sold at the public auction, the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.78 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder. The county sheriff or designee may reject any and all bids not meeting the minimum bid requirements specified in this division.

(C) Except as otherwise permitted under section 323.74 of the Revised Code, the successful bidder at a public auction conducted under this section shall pay the sheriff of the county or a designee of the sheriff a deposit of at least ten per cent of the purchase price in cash, or by bank draft or official bank check, at the time of the public auction, and shall pay the balance of the purchase price to the county treasurer within thirty days after the day on which the auction was held. Notwithstanding section 321.261 of the Revised Code, with respect to abandoned land foreclosed pursuant to sections 323.65 to 323.78 of the Revised Code, from the total proceeds arising from the sale of that land, the greater of twenty per cent of such proceeds, or the amount necessary under division (B) of section 323.75 of the Revised Code to reimburse the delinquent tax and assessment collection fund for the costs paid from the fund with respect to the abandoned land sold at the public auction, shall be deposited to the credit of that fund. The balance of the proceeds, if any, shall be distributed to the appropriate political subdivisions and other taxing units in proportion to their respective claims for taxes, assessments, interest, and penalties on the land.

(D) Upon the sale of abandoned land pursuant to this section, the owner's fee simple interest in the land shall be conveyed to the purchaser. A

conveyance under this division is free and clear of any liens and encumbrances of the parties named in the complaint for foreclosure attaching before the sale, and free and clear of any liens for taxes, except for federal tax liens and covenants and easements of record attaching before the sale.

(E) The county board of revision shall reject the sale of abandoned land to any person delinquent in the payment of taxes levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 5741., or 5743. of the Revised Code or any real property taxing provision of the Revised Code. The board also shall reject the sale of abandoned land to any person delinquent in the payment of property taxes on any parcel in the county, or to a member of any of the following classes of parties connected to that person:

(1) A member of that person's immediate family;

(2) Any other person with a power of attorney appointed by that person;

(3) A sole proprietorship owned by that person or a member of that person's immediate family;

(4) A partnership, trust, business trust, corporation, association, or other entity in which that person or a member of that person's immediate family owns or controls directly or indirectly any beneficial or legal interest.

(F) If the purchase of abandoned land sold pursuant to this section is for less than the sum of the impositions against the abandoned land and the costs apportioned to the land under division (A) of section 323.75 of the Revised Code, upon the sale, all liens for taxes due at the time the deed of the property is conveyed to the purchaser following the sale, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) If the county board of revision finds that the total of the impositions against the abandoned land are greater than the fair market value of the abandoned land as determined by the auditor's then-current valuation of that land, the board may order the property foreclosed and, without an appraisal or public auction, order the sheriff to execute a deed to the certificate holder that filed a complaint under section 323.69 of the Revised Code, or to a community development organization, municipal corporation, county, or township, whichever is applicable, as provided in section 323.74 of the Revised Code. Upon a transfer under this division, all liens for taxes due at the time the deed of the property is transferred to the certificate holder, community development organization, municipal corporation, county, or township following the conveyance, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

Sec. 323.74. (A) If a public auction is held for abandoned land pursuant to section 323.73 of the Revised Code, but the land is not sold at the public

auction, the county board of revision may order the disposition of the abandoned land in accordance with division (B) or (C) of this section.

(B) The abandoned land offered for sale at a public auction as described in section 323.73 of the Revised Code, but not sold at the auction, may be offered, at the discretion of the county board of revision, at a subsequent public auction occurring within sixty days after the public auction at which it first was offered. The subsequent public auction shall be held in the same manner as the public auction was held under section 323.73 of the Revised Code, but the minimum bid at an auction held under this division shall be the lesser of fifty per cent of fair market value of the abandoned land as currently shown by the county auditor's latest valuation, or the sum of the impositions against the abandoned land plus the costs apportioned to the land under section 323.75 of the Revised Code.

(C) Upon certification from the sheriff that abandoned land was offered for sale at a public auction as described in section 323.73 of the Revised Code but was not purchased, a community development organization or any municipal corporation, county, or township in which the land is located may file a petition with the county board of revision for transfer of the land to the community development organization, municipal corporation, county, or township at the time described in this division. The board must receive the petition at any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after the date on which the land was first offered for sale. The petition shall include a representation that the petitioner will commence, not later than thirty days after receiving legal title to the abandoned land, basic exterior improvements that will protect the land from further unreasonable deterioration. The improvements shall include, but are not limited to, the removal of trash and refuse from the exterior of the premises and the securing of open, vacant, or vandalized areas on the exterior of the premises.

(D) The county board of revision, by resolution, may certify to the sheriff that it has entered an adjudication of foreclosure and forfeiture against the abandoned land and order the sheriff to dispose of the abandoned land as prescribed in this division. The order by the board shall include instructions to the sheriff to transfer the land to the specified community development organization, municipal corporation, county, or township after payment of the costs of disposing of the abandoned land pursuant to section 323.75 of the Revised Code or, if any negotiated price has been agreed to between the county treasurer and the community development organization, municipal corporation, county, or township, after payment of that negotiated price as certified by the board to the sheriff.

(E) Upon receipt of a certification and payment under this section, the sheriff shall convey by sheriff's deed the owner's fee simple interest in, and to, the abandoned land. If the abandoned land is transferred pursuant to division (D) of this section, the county treasurer may waive, but is not required to waive, some or all of the impositions against the abandoned land or costs apportioned to the land under section 323.75 of the Revised Code if the county treasurer determines, in the treasurer's reasonable discretion, that the transfer of the abandoned property will result in the property being occupied.

(F) Upon a transfer under this section, all liens for taxes due at the time the deed of the property is conveyed to a purchaser or transferred to a community development organization, municipal corporation, county, or township, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

Sec. 323.75. (A) The county treasurer shall apportion the costs of the proceedings with respect to abandoned lands offered for sale at a public auction held pursuant to section 323.73 or 323.74 of the Revised Code among those lands either equally or in proportion to the fair market values of the lands. The costs of the proceedings include the costs of conducting the title search, notifying record owners or other persons required to be notified of the pending sale, advertising the sale, and any other costs incurred by the county board of revision, county treasurer, county auditor, clerk of court, prosecuting attorney, or county sheriff in performing their duties under sections 323.65 to 323.78 of the Revised Code.

(B) All costs assessed in connection with proceedings under sections 323.65 to 323.78 of the Revised Code may be paid as they are incurred, as follows:

(1) If the abandoned land in question is purchased at public auction, from the purchaser of the abandoned land;

(2) In the case of abandoned land transferred to a community development organization, municipal corporation, county, or township pursuant to division (D) of section 323.74 of the Revised Code, from either of the following:

(a) From the delinquent tax and assessment collection fund created under section 321.261 of the Revised Code;

(b) In the reasonable discretion of the county treasurer, from the community development organization, municipal corporation, county, or township, whichever is applicable, by mutual agreement between the organization, municipal corporation, county, or township and the treasurer.

(3) If the abandoned land in question is transferred to a certificate

holder, from the certificate holder.

(C) If a parcel of abandoned land is sold or otherwise transferred pursuant to sections 323.65 to 323.78 of the Revised Code, the officer who conducted the sale or made the transfer may collect a recording fee from the purchaser or transferee of the parcel at the time of the sale or transfer and shall prepare the deed conveying title to the parcel. That officer is authorized to record on behalf of that purchaser or transferee the deed conveying title to the parcel, notwithstanding that the deed may not actually have been delivered to the purchaser or transferee prior to the recording of the deed. Upon confirmation of that sale or transfer, the deed shall be deemed delivered to the purchaser or transferee of the parcel.

Sec. 323.76. Upon the sale of abandoned land at public auction pursuant to section 323.73 or 323.74 of the Revised Code, or upon the county board of revision's order to the sheriff to transfer abandoned land to a community development organization, municipal corporation, county, or township pursuant to division (D) of section 323.74 of the Revised Code, any common law or statutory right of redemption shall forever terminate upon the occurrence of whichever of the following is applicable:

(A) In the case of a sale of the land at public auction, upon the confirmation of the sale by resolution of the county board of revision and the filing of a copy of the resolution with the clerk of court who shall enter it upon the journal of the court or a separate journal;

(B) In the case of a transfer of the land to a community development organization, municipal corporation, county, or township pursuant to division (D) of section 323.74 of the Revised Code, upon the filing with the clerk of court of a copy of the resolution of the county board of revision certifying the entry of an adjudication of foreclosure and forfeiture of the land and of the order to the sheriff to transfer the land in fee simple to the community development organization, municipal corporation, county, or township, which the clerk shall enter upon the journal of the court or a separate journal;

(C) In the case of a transfer of the land to a certificate holder pursuant to division (G) of section 323.73 of the Revised Code, upon the filing with the clerk of court of a copy of the county board of revision's order to the sheriff to execute a deed to the certificate holder, which the clerk shall enter upon the journal of the court or a separate journal.

Sec. 323.77. (A) As used in this section, "electing subdivision" has the same meaning as in section 5722.01 of the Revised Code.

(B) At any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after

the date on which the land was first offered for sale, an electing subdivision may give the county treasurer notice in writing that it seeks to acquire any parcel of abandoned land, identified by parcel number, from the list compiled by the county treasurer pursuant to division (A) of section 323.67 of the Revised Code. If any such parcel of abandoned land identified under this section is offered for sale pursuant to section 323.73 of the Revised Code, but is not sold for want of a minimum bid, the electing subdivision that identified that parcel of abandoned land shall be deemed to have submitted the winning bid at the auction, and the parcel of abandoned land shall be sold to the electing subdivision for no consideration other than the costs prescribed in section 323.75 of the Revised Code or those costs to which the electing subdivision and the county treasurer mutually agree. The conveyance shall be confirmed, and any common law or statutory right of redemption forever terminated, upon the filing with the clerk of court of a copy of the resolution of the county board of revision certifying the entry of an adjudication of foreclosure and forfeiture of the land and the order to the sheriff to convey the land in fee simple to the electing subdivision, which the clerk shall enter upon the journal of the court or a separate journal.

Sec. 323.78. Any party to any proceeding instituted pursuant to sections 323.65 to 323.78 of the Revised Code who is aggrieved in any of the proceedings of the county board of revision under those sections may file an appeal in the court of common pleas pursuant to Chapters 2505. and 2506. of the Revised Code upon a final order of foreclosure and forfeiture by the board. A final order of foreclosure and forfeiture occurs upon confirmation of any sale or upon confirmation of any conveyance or transfer to a certificate holder, community development organization, municipal corporation, county, or township pursuant to sections 323.65 to 323.78 of the Revised Code. An appeal as provided in this section shall proceed as an appeal de novo and may include issues raised or adjudicated in the proceedings before the county board of revision, as well as other issues that are raised for the first time on appeal and that are pertinent to the abandoned land that is the subject of those proceedings.

An appeal shall be filed not later than fourteen days after the date on which the order of confirmation of the sale or of the conveyance or transfer to a certificate holder, community development organization, municipal corporation, county, or township is filed with and journalized by the clerk of court. The court does not have jurisdiction to hear any appeal filed after the expiration of that fourteen-day period. If the fourteenth day after the date on which the confirmation is filed with the clerk of court falls upon a weekend or official holiday during which the court is closed, then the filing shall be

made on the next day the court is open for business.

Sec. 5323.01. As used in this chapter:

(A) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.

(B) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code.

(C) "Mobile home" and "recreational vehicle" have the same meanings as in section 4501.01 of the Revised Code.

(D) "Political subdivision" means a county, township, municipal corporation, or other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(E) "Residential rental property" means real property on which is located one or more dwelling units leased or otherwise rented to tenants solely for residential purposes, or a mobile home park or other permanent or semipermanent site at which lots are leased or otherwise rented to tenants for the parking of a manufactured home, mobile home, or recreational vehicle that is used solely for residential purposes. "Residential rental property" does not include a hotel or a college or university dormitory.

Sec. 5323.02. (A) An owner of residential rental property shall file with the county auditor of the county in which the property is located the following information:

(1) The name, address, and telephone number of the owner;

(2) If the residential rental property is owned by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation, or any other business entity, the name, address, and telephone number of the following:

(a) A trustee, in the case of a trust or business trust;

(b) The executor or administrator, in the case of an estate;

(c) A general partner, in the case of a partnership or a limited partnership;

(d) A member, manager, or officer, in the case of a limited liability company;

(e) An associate, in the case of an association;

(f) An officer, in the case of a corporation;

(g) A member, manager, or officer, in the case of any other business entity.

(3) The street address and permanent parcel number of the residential rental property;

(4) If the residential rental property has dwelling units that are leased or otherwise rented to tenants, the year the units were built.

(B) The information required under division (A) of this section shall be filed and maintained in a manner to be determined by the county auditor.

(C) An owner of residential rental property shall update the information required under division (A) of this section within ten days after any change in the information occurs.

Sec. 5323.03. An owner of residential rental property who resides outside the state shall designate, in a manner to be determined by the county auditor of the county in which the property is located, an individual who resides in the state to serve as the owner's agent for the acceptance of service of process on behalf of the owner in any legal action or proceeding in the state, unless the owner previously designated and continues to maintain a statutory agent for the service of process with the secretary of state as a condition of being authorized to engage in business in this state pursuant to another section of the Revised Code.

An owner who designates an agent pursuant to this section shall file in writing with the relevant county auditor the name, address, and telephone number of the agent. An owner who previously designated and continues to maintain a statutory agent for the service of process with the secretary of state as a condition of being authorized to engage in business in this state pursuant to another section of the Revised Code shall file in writing with the county auditor of the county in which the residential rental property is located a certified copy of the document filed with the secretary of state containing that designation.

Sec. 5323.04. (A) All information filed with a county auditor under this chapter is a public record under section 149.43 of the Revised Code.

(B) An owner of residential rental property who complies with the requirements of this chapter shall be deemed to be in full compliance with any request by the state or any political subdivision to that owner for information that is identical to the information filed with the county auditor under this chapter.

Sec. 5323.99. No owner of residential rental property shall fail to comply with the filing or updating of information requirements of section 5323.02 of the Revised Code or shall fail to satisfy the designation of agent requirement or the filing of the appropriate designation of agent document requirement of section 5323.03 of the Revised Code. Whoever violates this section is guilty of a minor misdemeanor.

Sec. 5715.19. (A) As used in this section, "member" has the same meaning as in section 1705.01 of the Revised Code.

(1) Subject to division (A)(2) of this section, a complaint against any of the following determinations for the current tax year shall be filed with the

county auditor on or before the thirty-first day of March of the ensuing tax year or the date of closing of the collection for the first half of real and public utility property taxes for the current tax year, whichever is later:

(a) Any classification made under section 5713.041 of the Revised Code;

(b) Any determination made under section 5713.32 or 5713.35 of the Revised Code;

(c) Any recoupment charge levied under section 5713.35 of the Revised Code;

(d) The determination of the total valuation or assessment of any parcel that appears on the tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(e) The determination of the total valuation of any parcel that appears on the agricultural land tax list, except parcels assessed by the tax commissioner pursuant to section 5727.06 of the Revised Code;

(f) Any determination made under division (A) of section 319.302 of the Revised Code.

Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. The county auditor shall present to the county board of

revision all complaints filed with the auditor.

(2) As used in division (A)(2) of this section, "interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again.

No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:

(a) The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;

(b) The property lost value due to some casualty;

(c) Substantial improvement was added to the property;

(d) An increase or decrease of at least fifteen per cent in the property's occupancy has had a substantial economic impact on the property.

(3) If a county board of revision, the board of tax appeals, or any court dismisses a complaint filed under this section or section 5715.13 of the Revised Code for the reason that the act of filing the complaint was the unauthorized practice of law or the person filing the complaint was engaged in the unauthorized practice of law, the party affected by a decrease in valuation or the party's agent, or the person owning taxable real property in the county or in a taxing district with territory in the county, may refile the complaint, notwithstanding division (A)(2) of this section.

(B) Within thirty days after the last date such complaints may be filed, the auditor shall give notice of each complaint in which the stated amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination is at least seventeen thousand five hundred dollars to each property owner whose property is the subject of the complaint, if the complaint was not filed by the owner or the owner's spouse, and to each board of education whose school district may be affected by the complaint. Within thirty days after receiving such notice, a board of education; a property owner; the owner's spouse; an individual who is retained by such an owner and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of

the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763. of the Revised Code, or a real estate broker licensed under ~~chapter~~ Chapter 4735. of the Revised Code, who is retained by such a person; or, if the property owner is a firm, company, association, partnership, limited liability company, corporation, or trust, an officer, a salaried employee, a partner, a member, or trustee of that property owner, may file a complaint in support of or objecting to the amount of alleged overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect determination stated in a previously filed complaint or objecting to the current valuation. Upon the filing of a complaint under this division, the board of education or the property owner shall be made a party to the action.

(C) Each board of revision shall notify any complainant and also the property owner, if the property owner's address is known, when a complaint is filed by one other than the property owner, by certified mail, not less than ten days prior to the hearing, of the time and place the same will be heard. The board of revision shall hear and render its decision on a complaint within ninety days after the filing thereof with the board, except that if a complaint is filed within thirty days after receiving notice from the auditor as provided in division (B) of this section, the board shall hear and render its decision within ninety days after such filing.

(D) The determination of any such complaint shall relate back to the date when the lien for taxes or recoupment charges for the current year attached or the date as of which liability for such year was determined. Liability for taxes and recoupment charges for such year and each succeeding year until the complaint is finally determined and for any penalty and interest for nonpayment thereof within the time required by law shall be based upon the determination, valuation, or assessment as finally determined. Each complaint shall state the amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect classification or determination upon which the complaint is based. The treasurer shall accept any amount tendered as taxes or recoupment charge upon property concerning which a complaint is then pending, computed upon the claimed valuation as set forth in the complaint. If a complaint filed under this section for the current year is not determined by the board within the time prescribed for such determination, the complaint and any proceedings in relation thereto shall be continued by the board as a valid complaint for any ensuing year until such complaint is finally determined by the board or upon any appeal from a decision of the board. In such case, the original complaint shall continue in effect without further filing by the original taxpayer, the original taxpayer's assignee, or any other person or

entity authorized to file a complaint under this section.

(E) If a taxpayer files a complaint as to the classification, valuation, assessment, or any determination affecting the taxpayer's own property and tenders less than the full amount of taxes or recoupment charges as finally determined, an interest charge shall accrue as follows:

(1) If the amount finally determined is less than the amount billed but more than the amount tendered, the taxpayer shall pay interest at the rate per annum prescribed by section 5703.47 of the Revised Code, computed from the date that the taxes were due on the difference between the amount finally determined and the amount tendered. This interest charge shall be in lieu of any penalty or interest charge under section 323.121 of the Revised Code unless the taxpayer failed to file a complaint and tender an amount as taxes or recoupment charges within the time required by this section, in which case section 323.121 of the Revised Code applies.

(2) If the amount of taxes finally determined is equal to or greater than the amount billed and more than the amount tendered, the taxpayer shall pay interest at the rate prescribed by section 5703.47 of the Revised Code from the date the taxes were due on the difference between the amount finally determined and the amount tendered, such interest to be in lieu of any interest charge but in addition to any penalty prescribed by section 323.121 of the Revised Code.

(F) Upon request of a complainant, the tax commissioner shall determine the common level of assessment of real property in the county for the year stated in the request that is not valued under section 5713.31 of the Revised Code, which common level of assessment shall be expressed as a percentage of true value and the common level of assessment of lands valued under such section, which common level of assessment shall also be expressed as a percentage of the current agricultural use value of such lands. Such determination shall be made on the basis of the most recent available sales ratio studies of the commissioner and such other factual data as the commissioner deems pertinent.

(G) A complainant shall provide to the board of revision all information or evidence within the complainant's knowledge or possession that affects the real property that is the subject of the complaint. A complainant who fails to provide such information or evidence is precluded from introducing it on appeal to the board of tax appeals or the court of common pleas, except that the board of tax appeals or court may admit and consider the evidence if the complainant shows good cause for the complainant's failure to provide the information or evidence to the board of revision.

(H) In case of the pendency of any proceeding in court based upon an

alleged excessive, discriminatory, or illegal valuation or incorrect classification or determination, the taxpayer may tender to the treasurer an amount as taxes upon property computed upon the claimed valuation as set forth in the complaint to the court. The treasurer may accept the tender. If the tender is not accepted, no penalty shall be assessed because of the nonpayment of the full taxes assessed.

Sec. 5721.01. (A) As used in this chapter:

(1) "Delinquent lands" means all lands upon which delinquent taxes, as defined in section 323.01 of the Revised Code, remain unpaid at the time a settlement is made between the county treasurer and auditor pursuant to division (C) of section 321.24 of the Revised Code.

(2) "Delinquent vacant lands" means all lands that have been delinquent lands for at least ~~five~~ two years and that are unimproved by any dwelling.

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a newspaper or newspaper of general circulation shall be a publication bearing a title or name, regularly issued as frequently as once a week for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices.

Sec. 5721.03. (A) At the time of making the delinquent land list, as provided in section 5721.011 of the Revised Code, the county auditor shall compile a delinquent tax list consisting of all lands on the delinquent land list on which taxes have become delinquent at the close of the collection period immediately preceding the making of the delinquent land list. The auditor shall also compile a delinquent vacant land tax list of all delinquent vacant lands prior to the institution of any foreclosure and forfeiture actions against delinquent vacant lands under section 5721.14 of the Revised Code or any foreclosure actions against delinquent vacant lands under section 5721.18 of the Revised Code.

The delinquent tax list, and the delinquent vacant land tax list if one is compiled, shall contain all of the information included on the delinquent land list, except that, if the auditor's records show that the name of the person in whose name the property currently is listed is not the name that

appears on the delinquent land list, the name used in the delinquent tax list or the delinquent vacant land tax list shall be the name of the person the auditor's records show as the person in whose name the property currently is listed.

Lands that have been included in a previously published delinquent tax list shall not be included in the delinquent tax list so long as taxes have remained delinquent on such lands for the entire intervening time.

In either list, there may be included lands that have been omitted in error from a prior list and lands with respect to which the auditor has received a certification that a delinquent tax contract has become void since the publication of the last previously published list, provided the name of the owner was stricken from a prior list under section 5721.02 of the Revised Code.

(B)(1) The auditor shall cause the delinquent tax list and the delinquent vacant land tax list, if one is compiled, to be published twice within sixty days after the delivery of the delinquent land duplicate to the county treasurer, in a newspaper of general circulation in the county. The publication shall be printed in the English language.

The auditor shall insert display notices of the forthcoming publication of the delinquent tax list and, if it is to be published, the delinquent vacant land tax list once a week for two consecutive weeks in a newspaper of general circulation in the county. The display notices shall contain the times and methods of payment of taxes provided by law, including information concerning installment payments made in accordance with a written delinquent tax contract. The display notice for the delinquent tax list also shall include a notice that an interest charge will accrue on accounts remaining unpaid after the last day of November unless the taxpayer enters into a written delinquent tax contract to pay such taxes in installments. The display notice for the delinquent vacant land tax list if it is to be published also shall include a notice that delinquent vacant lands in the list are lands on which taxes have remained unpaid for ~~five~~ two years after being certified delinquent, and that they are subject to foreclosure proceedings as provided in section 323.25 or 5721.18 of the Revised Code, or foreclosure and forfeiture proceedings as provided in section 5721.14 of the Revised Code. Each display notice also shall state that the lands are subject to a tax certificate sale under section 5721.32 or 5721.33 of the Revised Code, as the case may be, and shall include any other information that the auditor considers pertinent to the purpose of the notice. The display notices shall be furnished by the auditor to the newspapers selected to publish the lists at least ten days before their first publication.

(2) Publication of the list or lists may be made by a newspaper in installments, provided the complete publication of each list is made twice during the sixty-day period.

(3) There shall be attached to the delinquent tax list a notice that the delinquent lands will be certified for foreclosure by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid. There shall be attached to the delinquent vacant land tax list, if it is to be published, a notice that delinquent vacant lands will be certified for foreclosure or foreclosure and forfeiture by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid within twenty-eight days after the final publication of the notice.

(4) The auditor shall review the first publication of each list for accuracy and completeness and may correct any errors appearing in the list in the second publication.

(C) For the purposes of section 5721.18 of the Revised Code, land is first certified delinquent on the date of the certification of the delinquent land list containing that land.

Sec. 5721.06. (A)(1) The form of the notice required to be attached to the published delinquent tax list by division (B)(3) of section 5721.03 of the Revised Code shall be in substance as follows:

"DELINQUENT LAND TAX NOTICE

The lands, lots, and parts of lots returned delinquent by the county treasurer of ..... county, with the taxes assessments, interest, and penalties, charged against them agreeably to law, are contained and described in the following list: (Here insert the list with the names of the owners of such respective tracts of land or town lots as designated on the delinquent tax list. If, prior to seven days before the publication of the list, a delinquent tax contract has been entered into under section 323.31 of the Revised Code, the owner's name may be stricken from the list or designated by an asterisk shown in the margin next to the owner's name.)

Notice is hereby given that the whole of such several lands, lots, or parts of lots will be certified for foreclosure by the county auditor pursuant to law unless the whole of the delinquent taxes, assessments, interest, and penalties are paid within one year or unless a tax certificate with respect to the parcel is sold under section 5721.32 or 5721.33 of the Revised Code. The names of persons who have entered into a written delinquent tax contract with the county treasurer to discharge the delinquency are designated by an asterisk or have been stricken from the list."

(2) If the county treasurer has certified to the county auditor that the treasurer intends to offer for sale a tax certificate with respect to one or more

parcels of delinquent land under section 5721.32 or 5721.33 of the Revised Code, the form of the notice shall include the following statement, appended after the second paragraph of the notice prescribed by division (A)(1) of this section:

"Notice also is hereby given that a tax certificate may be offered for sale under section 5721.32 or 5721.33 of the Revised Code with respect to those parcels shown on this list. If a tax certificate on a parcel is purchased, the purchaser of the tax certificate acquires the state's or its taxing district's first lien against the property, and an additional interest charge of up to eighteen per cent per annum shall be assessed against the parcel. In addition, failure by the owner of the parcel to redeem the tax certificate may result in foreclosure proceedings against the parcel. No tax certificate shall be offered for sale if the owner of the parcel has either discharged the lien by paying to the county treasurer in cash the amount of delinquent taxes, assessments, penalties, interest, and charges charged against the property, or has entered into a valid delinquent tax contract pursuant to section 323.31 of the Revised Code to pay those amounts in installments."

(B) The form of the notice required to be attached to the published delinquent vacant land tax list by division (B)(3) of section 5721.03 of the Revised Code shall be in substance as follows:

**"DELINQUENT VACANT LAND TAX NOTICE**

The delinquent vacant lands, returned delinquent by the county treasurer of..... county, with the taxes assessments, interest, and penalties charged against them according to law, and remaining delinquent for ~~five~~ two years, are contained and described in the following list: (here insert the list with the names of the owners of the respective tracts of land as designated on the delinquent vacant land tax list. If, prior to seven days before the publication of the list, a delinquent tax contract has been entered into under section 323.31 of the Revised Code, the owner's name may be stricken from the list or designated by an asterisk shown in the margin next to the owner's name.)

Notice is hereby given that these delinquent vacant lands will be certified for foreclosure or foreclosure and forfeiture by the county auditor pursuant to law unless the whole of the delinquent taxes, assessments, interest, and penalties are paid within twenty-eight days after the final publication of this notice. The names of persons who have entered into a written delinquent tax contract with the county treasurer to discharge the delinquency are designated by an asterisk or have been stricken from the list."

Sec. 5739.03. (A) Except as provided in section 5739.05 of the Revised

Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following:

(i) A vendor that fraudulently fails to collect tax;

(ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a

service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A vendor that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division ~~(B)~~(D) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The vendor shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) The tax commissioner may establish an identification system whereby the commissioner issues an identification number to a consumer that is exempt from payment of the tax. The consumer must present the number to the vendor, if any sale is claimed to be exempt as provided in this section.

(4) If no certificate is provided or obtained within ninety days after the date on which such sale is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a vendor, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the sale is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(6) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for

the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall provide to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

(D) Notwithstanding division (B) of section 5739.01 of the Revised

Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds to the consumer the full price of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the full amount of the tax paid.

Sec. 5739.033. (A) Except as provided in division (B) of this section, divisions (C) to (I) of this section apply to sales made on and after May 1, 2006. Sales made before May 1, 2006, are subject to section 5739.035 of the Revised Code. On and after January 1, 2005, any vendor may irrevocably elect to comply with divisions (C) to (I) of this section for all of the vendor's sales and places of business in this state.

The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 of the Revised Code, or at the situs of the sale as determined under section 5739.035 of the Revised Code. This section applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. Division (A) of this section does not apply in determining the jurisdiction for which sellers are required to collect the use tax under section 5741.05 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or

benefit realized.

(B)(1) As used in this division, ~~"delivery:~~

(a) "Delivery sale" means the taxable sale of tangible personal property or a service that is received by a consumer, or a donee designated by the consumer, in a taxing jurisdiction that is not the taxing jurisdiction in which the vendor has a fixed place of business.

(b) "Agreement" has the same meaning as in section 5740.01 of the Revised Code.

(c) "Governing board" has the same meaning as in section 5740.02 of the Revised Code.

(2)(a) A vendor with total delivery sales in calendar year 2005 that are less than thirty million dollars may continue to situs its sales under section 5739.035 of the Revised Code from May 1, 2006, through April 30, 2007, except that, if the tax commissioner does not enter a determination in the commissioner's journal under division (B)(2)(b) of this section, those dates shall be May 1, 2006, through December 31, 2007.

(b) A On or before February 1, 2007, the tax commissioner shall determine whether certified service provider services are being provided by the governing board of the streamlined sales and use tax agreement for all delivery sales. If the commissioner determines that such services are being so provided, the commissioner shall enter the determination in the commissioner's journal and shall provide notice of the determination on the department of taxation's official internet web site. If the commissioner makes such an entry in the journal, then a vendor with total delivery sales in calendar year 2006 that are less than five million dollars may continue to situs its sales under section 5739.035 of the Revised Code from May 1, 2007, through December 31, 2007.

~~(e)~~(3) Beginning January 1, 2008, all vendors shall source their sales under divisions (C) to (I) of this section.

~~(3)~~(4) Once a vendor has total delivery sales that exceed the dollar amount in division (B)(2)(a) or (b) of this section, the vendor shall source its sales under divisions (C) to (I) of this section and shall continue to source its sales under those divisions, regardless of the amount of the vendor's total delivery sales in future years.

(C) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 of the Revised Code, all sales shall be sourced as follows:

(1) If the consumer or a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business, the

sale shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, the sale shall be sourced to the location known to the vendor where the consumer or the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee.

(3) If divisions (C)(1) and (2) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (C)(1), (2), and (3) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (C)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the sale shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (C) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software, except computer software received in person by a business consumer at a vendor's place of business, or a service, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase an exemption certificate claiming multiple points of use, or shall meet the requirements of division ~~(B)~~(D)(2) of this section. On receipt of the exemption certificate claiming multiple points of use, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the business consumer must pay the tax directly to the state.

(b) A business consumer that delivers the exemption certificate claiming multiple points of use to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the digital good, computer software, or service that is supported by the consumer's business records as they existed at the time of the sale. The business consumer shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned under this division.

(c) The exemption certificate claiming multiple points of use shall remain in effect for all future sales by the vendor to the business consumer until it is revoked in writing by the business consumer, except as to the business consumer's specific apportionment of a subsequent sale under division (D)(1)(b) of this section and the facts existing at the time of the sale.

(2) When the vendor knows that a digital good, computer software, or service sold will be concurrently available for use by the business consumer in more than one jurisdiction, but the business consumer does not provide an exemption certificate claiming multiple points of use as required by division ~~(B)~~(D)(1) of this section, the vendor may work with the business consumer to produce the correct apportionment. Governed by the principles of division ~~(B)~~(D)(1)(b) of this section, the vendor and business consumer may use any reasonable, but consistent and uniform, method of apportionment that is supported by the vendor's and business consumer's books and records as they exist at the time the sale is reported for purposes of the taxes levied under this chapter. If the business consumer certifies to the accuracy of the apportionment and the vendor accepts the certification, the vendor shall collect and remit the tax accordingly. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the information certified by the business consumer.

(3) When the vendor knows that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction, and the business consumer does not have a direct pay permit and does not provide to the vendor an exemption certificate claiming multiple points of use as required in division ~~(B)~~(D)(1) of this section, or certification pursuant to division ~~(B)~~(D)(2) of this section, the vendor shall collect and remit the tax based on division ~~(A)~~(C) of this section.

(4) Nothing in this section shall limit a person's obligation for sales or use tax to any state in which a digital good, computer software, or service is

concurrently available for use, nor limit a person's ability under local, state, or federal law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

(E) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver an exemption certificate claiming multiple points of use to a vendor. But such permit holder shall comply with division (D)(2) of this section in apportioning the tax due on a digital good, computer software, or a service for use in business that will be concurrently available for use in more than one taxing jurisdiction.

(F)(1) Notwithstanding divisions (C)(1) to (5) of this section, the consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the sale either an exemption certificate claiming direct mail prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of such exemption certificate, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the consumer is obligated to pay that tax on a direct pay basis. An exemption certificate claiming direct mail shall remain in effect for all future sales of direct mail by the vendor to the consumer until it is revoked in writing.

(3) Upon receipt of information from the consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the consumer.

(4) If the consumer of direct mail does not have a direct payment permit and does not provide the vendor with either an exemption certificate claiming direct mail or delivery information as required by division (F)(1) of this section, the vendor shall collect the tax according to division (C)(5) of this section. Nothing in division (F)(4) of this section shall limit a consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a consumer of direct mail provides the vendor with documentation of direct payment authority, the consumer shall not be required to provide an exemption certificate claiming direct mail or delivery information to the vendor.

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale shall be

sourced to the location where the lodging is located.

(H)(1) As used in this division and division (I) of this section, "transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (H)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (C) of this section.

(I)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (C) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced as follows:

(i) An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code shall be sourced to the primary property location at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, each lease or rental installment shall be sourced to the primary property location for the period covered by the installment.

(b) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) An accelerated tax payment on a lease or rental that is taxed pursuant

to division (A)(2) of section 5739.02 of the Revised Code shall be sourced pursuant to division (C) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (C) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (I) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

Sec. 5739.24. (A) As used in this section:

(1) "Destination-based sourcing requirements" has the same meaning as in section 5739.123 of the Revised Code.

(2) "Impacted county" means a county having a population of less than seventy-five thousand as of the decennial census of 2000 taken by the United States census bureau.

(3) "Master account holder" means a person that holds more than one vendor's license under division (A) of section 5739.17 of the Revised Code, operates in multiple tax jurisdictions under the same ownership, and files or is required to file a consolidated return under section 5739.12 of the Revised Code.

(4) "Tax jurisdiction" means a county or, if applicable, the portion of a county in which a transit authority has territory.

(B)(1) Beginning in 2006, within thirty days after the thirtieth day of June and the thirty-first day of December of each year, a master account holder that makes a sale that is subject to the destination-based sourcing requirements shall file with the tax commissioner a report that details the total taxable sales it made for the prior six-month period in each tax jurisdiction and at each fixed place of business for which the master account holder holds or should hold a license, irrespective of where those sales were sourced under those requirements. The commissioner may extend the time for filing the report under this section.

(2) If the report required by division (B)(1) of this section is not timely filed by a master account holder, the tax commissioner shall mail notice of a delinquent report to the holder. In addition to any other penalties or

additional charges imposed under this chapter, the commissioner may impose a penalty of up to fifty dollars for each fixed place of business of the master account holder. If the report is filed within fifteen days after the commissioner mails the delinquency notice, the penalty may be remitted in full or in part by the commissioner. But if the master account holder fails to file the report within fifteen days after the commissioner mails the notice, the commissioner shall impose a penalty of up to one hundred dollars for each fixed place of business of the master account holder. This penalty may not be remitted in full by the commissioner. A penalty imposed under this division is subject to collection and assessment in the same manner as any tax levied under this chapter.

(C)(1) Beginning in 2006, within seventy-five days after the thirty-first day of July each year and the thirty-first day of January of the following year, the tax commissioner shall determine for each county both of the following:

(a) The amount of taxes reported on returns filed by all vendors licensed under division (A) of section 5739.17 of the Revised Code that were levied by sections 5739.021 and 5739.026 of the Revised Code and were reported as due in accordance with the destination-based sourcing requirements;

(b) The amount of taxes levied by those sections that would have been paid to the county by vendors licensed under division (A) of section 5739.17 of the Revised Code if the taxes had been collected in accordance with section 5739.035 of the Revised Code.

The commissioner may make any adjustments that are necessary to account for delinquent tax returns or reports.

(2) In making the determination required by division (C)(1) of this section, the commissioner shall use the lesser of the county's tax rate in effect as of January 1, 2006, or the actual tax rate in effect for the six-month period for which the compensation was calculated.

(3) The commissioner also shall calculate the percentage difference between the amounts determined under divisions (C)(1)(a) and (b) of this section by using a fraction, with the amount determined under division (C)(1)(a) of this section in the numerator, and the amount determined under division (C)(1)(b) of this section in the denominator.

(D)(1) If the percentage difference calculated under division (C)(3) of this section for a county is ninety-six per cent or less, and the county is an impacted county under this section, the county shall receive compensation. Beginning in 2006, within ninety days after the thirty-first day of July each year and the thirty-first day of January of the following year, the tax commissioner, in the next ensuing payment to be made under division

(B)(1) of section 5739.21 of the Revised Code, shall in addition provide from the general revenue fund to such county compensation in the amount of ninety-eight per cent of the denominator calculated under division (C)(3) of this section, minus the numerator calculated under division (C)(3) of this section.

(2) A county that is entitled to compensation under division (D)(1) of this section may request an advance payment of that compensation. The commissioner shall adopt rules that establish the manner by which such county may make the request and the method the commissioner will use to determine the amount of the advance payment to be made to the county. Compensation provided under division (D)(1) of this section shall be adjusted accordingly to account for advance payments made under division (D)(2) of this section.

(E) If, under division (C)(1) of this section, the tax commissioner determines that a county received more taxes under the destination-based sourcing requirements than it would have received if taxes had been paid in accordance with section 5739.035 of the Revised Code, the county is a windfall county under this division. Beginning in 2006, within ninety days after the thirty-first day of July each year and the thirty-first day of January of the following year, the commissioner, in the next ensuing payment to be made under division (B)(1) of section 5739.21 of the Revised Code, shall reduce the amount to be returned to each windfall county by the total amount of excess taxes that would have been received by all windfall counties in proportion to the total amount needed to compensate counties under division (D) of this section.

(F) The commissioner shall make available to the public the determinations made under division (C) of this section, but any data obtained from taxpayers under this section or that would identify those taxpayers shall remain confidential.

(G) There is hereby created the county compensation tax study committee. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, ~~2006~~ 2007. The tax commissioner shall be the chairperson of the committee and the department of taxation shall provide any information and assistance that is required by the committee to carry out its duties. The committee shall study the extent to which each county has been impacted by the destination-based sourcing requirements. Not later than June 30, ~~2006~~ 2007, the committee shall issue a

report of its findings and shall make recommendations to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected as provided in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of the tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five and one-half per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the

Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a nonresident tourist or vacationer, or a ~~non-business~~ nonbusiness use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally,

levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(9) Cigarettes that have a wholesale value of three hundred dollars or less used, stored, or consumed, but not for resale, in any month.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the

following:

(i) A seller that fraudulently fails to collect tax;  
(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division ~~(B)~~(D) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) If no certificate is provided or obtained within ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a seller, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were

exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

SECTION 2. That existing sections 5715.19, 5721.01, 5721.03, 5721.06, 5739.03, 5739.033, 5739.24, and 5741.02 of the Revised Code are hereby repealed.

SECTION 3. The amendment by this act of section 5715.19 of the Revised Code first applies to the filing of complaints for tax year 2005. Notwithstanding division (A) of that section, the deadline for filing a complaint under division (A)(1)(f) of that section, as amended, for tax year 2005 is December 31, 2006.

SECTION 4. Section 5739.033 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and Am. Sub. S.B. 26 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

---

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

---

*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

---

*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

---

*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

---

*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_