

**As Reported by the Senate Ways and Means and Economic
Development Committee**

**126th General Assembly
Regular Session
2005-2006**

Sub. H. B. No. 294

**Representatives Kilbane, Miller, Seitz, Trakas, Latta, Wolpert, Evans, C.,
Reidelbach, Faber, Cassell, Kearns, Brown, Carano, Hartnett, Boccieri, Perry,
Healy, Buehrer, Mason, Willamowski, Oelslager, Allen, Barrett, Collier,
DeGeeter, Dolan, Domenick, Gibbs, Harwood, Hughes, Koziura, Law,
McGregor, J., Patton, T., Peterson, Sayre, Setzer, Smith, G., Stewart, D.,
Taylor, White, Yuko
Senators Spada, Roberts, Schuler**

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A B I L L

To amend sections 5715.19, 5721.01, 5721.03, 5721.06,	1
5739.03, 5739.033, 5739.24, and 5741.02 and to	2
enact sections 323.65, 323.66, 323.67, 323.68,	3
323.69, 323.70, 323.71, 323.72, 323.73, 323.74,	4
323.75, 323.76, 323.77, 323.78, 5323.01, 5323.02,	5
5323.03, 5323.04, and 5323.99 of the Revised Code	6
to reduce the time period for designating	7
delinquent vacant lands subject to judicial	8
foreclosure, to provide an expedited foreclosure	9
procedure for unoccupied lands that have	10
delinquent tax charges, to establish an appeal	11
procedure for filing complaints against "rollback"	12
exemption determinations, to extend, under certain	13
circumstances, the date by which vendors with a	14
certain level of limited Ohio sales must begin	15
destination-based sourcing under the sales tax	16
law, and to require a residential rental property	17

owner to file with the county auditor certain 18
information about the owner and the property. 19

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

Section 1. That sections 5715.19, 5721.01, 5721.03, 5721.06, 20
5739.03, 5739.033, 5739.24, and 5741.02 be amended and sections 21
323.65, 323.66, 323.67, 323.68, 323.69, 323.70, 323.71, 323.72, 22
323.73, 323.74, 323.75, 323.76, 323.77, 323.78, 5323.01, 5323.02, 23
5323.03, 5323.04, and 5323.99 of the Revised Code be enacted to 24
read as follows: 25

Sec. 323.65. As used in sections 323.65 to 323.78 of the 26
Revised Code: 27

(A) "Abandoned land" means delinquent lands or delinquent 28
vacant lands, including any improvements on the lands, that are 29
unoccupied and that first appeared on the abandoned land list 30
compiled under division (C) of section 323.67 of the Revised Code, 31
or the delinquent tax list or delinquent vacant land tax list 32
compiled under section 5721.03 of the Revised Code, at whichever 33
of the following times is applicable: 34

(1) In the case of lands other than agricultural lands, at 35
any time after the county auditor makes the certification of the 36
delinquent land list under section 5721.011 of the Revised Code; 37

(2) In the case of agricultural lands, at any time after two 38
years after the county auditor makes the certification of the 39
delinquent land list under section 5721.011 of the Revised Code. 40

(B) "Agricultural land" means lands on the agricultural land 41
tax list maintained under section 5713.33 of the Revised Code. 42

(C) "Clerk of court" means the clerk of the court of common 43
pleas of the county in which specified abandoned land is located. 44

(D) "Delinquent lands" has the same meaning as in section 45
5721.01 of the Revised Code. 46

(E) "Delinquent vacant lands" means all lands that are 47
delinquent lands and that are unimproved by any structure. 48

(F) "Impositions" means delinquent taxes, assessments, 49
penalties, interest, costs, reasonable attorney's fees of a 50
certificate holder, applicable and permissible costs of the 51
prosecuting attorney of a county, and other permissible charges 52
against abandoned land. 53

(G)(1) "Unoccupied," with respect to a parcel of abandoned 54
land, means any of the following: 55

(a) No building, structure, land, or other improvement that 56
is subject to taxation and that is located on the parcel is 57
physically inhabited as a dwelling; 58

(b) No trade or business is actively being conducted on the 59
parcel by the owner, a tenant, or another party occupying the 60
parcel pursuant to a lease or other legal authority, or in a 61
building, structure, or other improvement that is subject to 62
taxation and that is located on the parcel; 63

(c) The parcel is uninhabited and there are no signs that it 64
is undergoing a change in tenancy and remains legally habitable, 65
or that it is undergoing improvements, as indicated by an 66
application for a building permit or other facts indicating that 67
the parcel is experiencing ongoing improvements; 68

(d) In the case of delinquent vacant land, there is no 69
permanent structure or improvement affixed on the land. 70

(2) For purposes of division (G)(1) of this section, it is 71
prima-facie evidence and a rebuttable presumption that may be 72
rebutted to the county board of revision that abandoned land is 73
unoccupied if, at the time the county auditor makes the 74

certification under section 5721.011 of the Revised Code, the
abandoned land is not agricultural land, and two or more of the
following apply:

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(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.

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(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.

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(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.

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(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:

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(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.

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(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,

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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.

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

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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.

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(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.

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(2) A county board of revision, upon any adjudication of

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foreclosure under sections 323.65 to 323.78 of the Revised Code, 137
may prepare final orders of sale and deeds. For such purposes, the 138
board may create its own order of sale and deed forms. The sheriff 139
shall execute and deliver any forms prepared under this division 140
in the manner prescribed in sections 323.65 to 323.78 of the 141
Revised Code. 142

(C) In addition to all other duties and functions provided by 143
law, under sections 323.65 to 323.78 of the Revised Code the clerk 144
of court, in the same manner as in civil actions, shall provide 145
summons and notice of hearings, maintain an official case file, 146
docket all proceedings, and tax as costs all necessary actions in 147
connection therewith in furtherance of the foreclosure of 148
abandoned land under those sections. The county board of revision 149
shall file with the clerk of court all resolutions and 150
adjudications of the board, and the clerk shall docket and 151
journalize all resolutions and adjudications so filed by the 152
board. The clerk may utilize the court's existing journal or 153
maintain a separate journal for purposes of sections 323.65 to 154
323.78 of the Revised Code. The resolutions and adjudications of 155
the board shall not become effective until journalized by the 156
clerk. 157

(D) For the purpose of efficiently and promptly implementing 158
sections 323.65 to 323.78 of the Revised Code, the prosecuting 159
attorney of the county, the county treasurer, the clerk of court 160
of the county, the county auditor, and the sheriff of the county 161
may promulgate rules, not inconsistent with sections 323.65 to 162
323.78 of the Revised Code, regarding practice forms, forms of 163
notice for hearings and notice to parties, fees, publication, and 164
other procedures customarily within their official purview and 165
respective duties. 166

Sec. 323.67. (A) The county treasurer or a certificate 167

holder, from the list compiled under division (C) of this section 168
or the delinquent tax list or delinquent vacant land tax list 169
compiled under section 5721.03 of the Revised Code, may identify 170
and compile a list of the parcels in the county that the treasurer 171
or certificate holder determines to be abandoned lands suitable 172
for disposition under sections 323.65 to 323.78 of the Revised 173
Code. Those parcels may be identified in an affidavit directed to 174
the county treasurer and executed by a duly authorized officer of 175
the municipal corporation or township in which the parcel is 176
located. 177

(B)(1) If a county treasurer compiles a list of parcels under 178
division (A) of this section that the treasurer determines to be 179
abandoned lands suitable for disposition under sections 323.65 to 180
323.78 of the Revised Code, the treasurer may declare by 181
resolution that the delinquent taxes, interest, penalties, and 182
charges levied on the abandoned lands on the list are uncollected, 183
that the restoration of the abandoned lands to the tax list is of 184
sufficient public interest to justify the expeditious foreclosure 185
of the state's lien for the delinquent taxes, and that the 186
abandoned lands, for those reasons, shall be offered for sale by 187
public auction or otherwise conveyed pursuant to sections 323.65 188
to 323.78 of the Revised Code. The treasurer shall certify a copy 189
of the resolution to the prosecuting attorney of the county served 190
by the treasurer. 191

(2) If a certificate holder compiles a list of parcels under 192
division (A) of this section that the certificate holder 193
determines to be abandoned lands suitable for disposition under 194
sections 323.65 to 323.78 of the Revised Code, the certificate 195
holder may proceed under sections 323.68 and 323.69 of the Revised 196
Code. 197

(C) For purposes of sections 323.65 to 323.78 of the Revised 198

Code, the county auditor or county treasurer may compile or 199
certify an abandoned land list in any manner and at such times as 200
will give effect to the expedited foreclosure of abandoned land. 201

Sec. 323.68. (A)(1) If a county treasurer adopts a resolution 202
under division (B) of section 323.67 of the Revised Code and 203
certifies a copy of the resolution to the prosecuting attorney, 204
the prosecuting attorney shall cause a title search to be 205
conducted for the purpose of identifying any lienholders or other 206
persons having a legal or equitable ownership interest or other 207
security interest of record in abandoned land appearing on the 208
list compiled under division (A) of that section. 209

(2) If a certificate holder compiles a list of the parcels 210
that the certificate holder determines to be abandoned land under 211
division (A) of section 323.67 of the Revised Code, the 212
certificate holder shall cause a title search to be conducted for 213
the purpose of identifying any lienholders or other persons having 214
a legal or equitable ownership interest or other security interest 215
of record in abandoned land appearing on the list. 216

(B) Notwithstanding section 5301.252 of the Revised Code, an 217
affidavit of a type described in that section shall not be 218
considered a lien or encumbrance on the abandoned land, and the 219
recording of an affidavit of a type described in that section 220
shall not serve in any way to impede the bona fide purchaser 221
status of the purchaser of any abandoned land sold at public 222
auction under sections 323.65 to 323.78 of the Revised Code or of 223
any other recipient of abandoned land transferred under those 224
sections. However, any affiant who records an affidavit pursuant 225
to section 5301.252 of the Revised Code shall be given notice and 226
summons under sections 323.69 to 323.78 of the Revised Code in the 227
same manner as any lienholder. 228

Sec. 323.69. (A) Upon the completion of the title search 229
required by section 323.68 of the Revised Code, the prosecuting 230
attorney, representing the county treasurer, or the certificate 231
holder may file with the clerk of court a complaint for the 232
foreclosure of each parcel of abandoned land appearing on the list 233
compiled under division (A) of section 323.67 of the Revised Code, 234
and for the equity of redemption on each parcel. The complaint 235
shall name all parties having any interest of record in the 236
abandoned land that was discovered in the title search. 237

(B)(1) In accordance with Civil Rule 4, the clerk of court 238
promptly shall serve notice of the summons and the complaint filed 239
under division (A) of this section to the last known address of 240
the record owner of the abandoned land and to the last known 241
address of each lienholder or other person having a legal or 242
equitable ownership interest or security interest of record 243
identified by the title search. The notice shall inform the 244
addressee that delinquent taxes stand charged against the 245
abandoned land; that the land will be sold at public auction or 246
otherwise disposed of if not redeemed by the owner or other 247
addressee; that the sale will occur at a date, time, and place, 248
and in the manner prescribed in sections 323.65 to 323.78 of the 249
Revised Code; that the owner or other addressee may redeem the 250
land by paying the total of the impositions against the land 251
within thirty days after the date on which service of process is 252
perfected in accordance with Civil Rule 4, or may file within 253
thirty days after that date a petition with the county board of 254
revision requesting a hearing on the foreclosure; that the case is 255
being prosecuted by the prosecuting attorney of the county in the 256
name of the county treasurer for the county in which the abandoned 257
land is located or by a certificate holder, whichever is 258
applicable; of the name, address, and telephone number of the 259
county board of revision before which the action is pending; of 260

the board case number for the action, which shall be maintained in 261
the official file and docket of the clerk of court; and that all 262
subsequent pleadings, petitions, and papers associated with the 263
case and filed by any interested party must be filed with the 264
clerk of court and will become part of the case file for the 265
board. 266

(2) The notice required by division (B)(1) of this section 267
also shall inform the addressee that the addressee may, at any 268
time on or before the twentieth day after service of process is 269
perfected, file a petition with the county board of revision 270
requesting that the board dismiss the complaint and order that the 271
abandoned land identified in the notice be removed from the list 272
compiled under division (A) of section 323.67 of the Revised Code. 273
The notice shall further inform the addressee that, upon filing 274
such a petition to remove the abandoned land from that list, the 275
abandoned land will be removed from the list and cannot thereafter 276
be disposed of under sections 323.65 to 323.78 of the Revised 277
Code, until the record owner of the abandoned land who is provided 278
notice under division (B)(1) of this section sells or otherwise 279
conveys the owner's ownership interest, and that any future 280
attempts to collect delinquent taxes, interest, penalties, and 281
charges owed with respect to that land and appearing on the 282
delinquent tax list or delinquent vacant land tax list, whichever 283
the case may be, will be conducted in accordance with the judicial 284
foreclosure proceedings and other remedies and procedures 285
prescribed under sections 323.25 to 323.28 or under Chapters 286
5721., 5722., and 5723. of the Revised Code until the record owner 287
sells or otherwise conveys the owner's ownership interest. 288

(C) Subsequent pleadings, petitions, or papers associated 289
with the case and filed with the clerk of court shall be served 290
upon all parties of record in accordance with Civil Rules 4 and 5. 291
Any inadvertent noncompliance with those rules does not serve to 292

defeat or terminate the case, or subject the case to dismissal, as 293
long as actual notice or service of filed papers is shown by a 294
preponderance of the evidence or is acknowledged by the party 295
charged with notice or service. The county board of revision may 296
conduct evidentiary hearings on the sufficiency of process, 297
service of process, or sufficiency of service of papers in any 298
proceeding arising from a complaint filed under this section. 299
Other than the notice and service provisions contained in Civil 300
Rules 4 and 5, the Rules of Civil Procedure shall not be 301
applicable to the proceedings of the board. Board practice shall 302
be in accordance with the practice and rules of the board that are 303
promulgated by the board under section 323.66 of the Revised Code 304
and are not inconsistent with sections 323.65 to 323.78 of the 305
Revised Code. 306

(D) At any time after a foreclosure action is filed under 307
this section, the county board of revision may, upon its own 308
motion, dismiss the case without prejudice if it determines that, 309
given the complexity of the case or other circumstances, a court 310
would be a more appropriate forum for the action. 311

Sec. 323.70. (A) Subject to this section and to sections 312
323.71 and 323.72 of the Revised Code, a county board of revision 313
shall conduct a final hearing on the merits of a complaint filed 314
under section 323.69 of the Revised Code not sooner than thirty 315
days nor later than one hundred eighty days after the service of 316
notice of summons and complaint has been perfected in accordance 317
with Civil Rule 4. 318

(B) If, on or before the twentieth day after service of 319
process is perfected under division (B) of section 323.69 of the 320
Revised Code, the record owner, or a lienholder or other person 321
having a legal or equitable ownership interest or security 322
interest of record in abandoned land, files a petition with the 323

county board of revision requesting that the board order that the 324
complaint be dismissed and that the abandoned land be removed from 325
the list compiled under division (A) of section 323.67 of the 326
Revised Code, the board shall, without conducting a hearing on the 327
matter, immediately dismiss the complaint for foreclosure of that 328
land and order that the land be removed from the list. Thereafter, 329
until the record owner sells or otherwise conveys the owner's 330
ownership interest, any attempts to collect delinquent taxes, 331
interest, penalties, and charges owed with respect to that land 332
and appearing on the delinquent tax list or delinquent vacant land 333
tax list, whichever the case may be, shall be conducted in 334
accordance with the judicial foreclosure proceedings and other 335
remedies and procedures prescribed under sections 323.25 to 323.28 336
or under Chapters 5721., 5722., and 5723. of the Revised Code. 337

Sec. 323.71. (A)(1) If the impositions against a parcel of 338
abandoned land that is the subject of a complaint filed under 339
section 323.69 of the Revised Code exceed the fair market value of 340
that parcel as currently shown by the latest valuation by the 341
auditor of the county in which the land is located, then the 342
prosecuting attorney or the certificate holder, whichever is 343
applicable, may notify the county board of revision in writing by 344
filing a notice with the clerk of court that, in the prosecuting 345
attorney's or certificate holder's opinion, based on the auditor's 346
then-current valuation of the parcel of abandoned land, the 347
impositions against that parcel exceed the fair market value of 348
that parcel. The prosecuting attorney or certificate holder shall 349
file this notice not later than fourteen days before the final 350
hearing is conducted pursuant to section 323.70 of the Revised 351
Code. After the clerk's receipt of the notice, the board shall 352
schedule a hearing on the question of the valuation of the 353
abandoned land, as prescribed in this section. The board shall 354
give notice of the hearing in accordance with section 323.69 of 355

the Revised Code. In addition to determining the valuation of the 356
abandoned land at the hearing, the board also may adjudicate the 357
ultimate disposition of the case pursuant to section 323.72 of the 358
Revised Code, if the notice of the hearing specifies that the 359
hearing may adjudicate that ultimate disposition. 360

(2) A lienholder may file with the county board of revision a 361
good faith appraisal of the parcel of abandoned land from a 362
licensed professional appraiser and request a hearing under 363
division (A)(1) of this section. If the lienholder shows by a 364
preponderance of the evidence that the impositions against the 365
parcel of abandoned land do not exceed the fair market value of 366
that parcel as determined by the auditor's then-current valuation 367
of that parcel, then the board may dismiss the complaint and may 368
remove that abandoned land from the list compiled under division 369
(A) of section 323.67 of the Revised Code. 370

(3) The county board of revision shall conduct a valuation 371
hearing as provided in this section and shall make a factual 372
finding as to whether the impositions against the parcel of 373
abandoned land exceed or do not exceed the fair market value of 374
that parcel as determined by the auditor's then-current valuation 375
of that parcel. If the board finds that the impositions do not 376
exceed the fair market value of that parcel as determined by the 377
auditor's then-current valuation of that parcel, then the board 378
shall determine whether the restoration of the abandoned land to 379
the tax duplicate remains of sufficient public interest to justify 380
adjudicating the case under sections 323.65 to 323.78 of the 381
Revised Code. In making its determination under this division, the 382
board may consider any of the following: 383

(a) The period of time in which the parcel has been tax 384
delinquent; 385

(b) The likelihood of payment of the tax delinquency; 386

(c) The interest in the parcel by, or the input of, any 387
affected municipal corporation, county, township, or community 388
development organization; 389

(d) The existence of any land reutilization program 390
authorized under Chapter 5722. of the Revised Code; 391

(e) Any other factors or testimony that the board determines 392
will more expeditiously cause the abandoned land to be restored to 393
the tax duplicate. 394

(4) If the county board of revision determines at a hearing 395
held under division (A) of this section that the impositions 396
against the parcel do not exceed the fair market value of that 397
parcel as determined by the auditor's then-current valuation of 398
that parcel, the board may, but is not required to, order that the 399
complaint be dismissed and that the parcel be removed from the 400
list compiled under division (A) of section 323.67 of the Revised 401
Code, provided that, if the lienholder requests a hearing under 402
division (A)(2) of this section and either does not appear at the 403
hearing or does not supply the board with a good faith appraisal 404
within the time and in the manner prescribed in this section, the 405
complaint shall not be dismissed and the parcel shall not be 406
removed from the list. 407

(5) If the county board of revision determines at the hearing 408
held under division (A) of this section that the impositions 409
against the parcel exceed the fair market value of that parcel as 410
determined by the auditor's then-current valuation of that parcel, 411
or that the restoration of the abandoned land to the tax duplicate 412
remains of sufficient public interest to justify adjudicating the 413
case under sections 323.65 to 323.78 of the Revised Code, the 414
board shall not dismiss the complaint nor order that the parcel be 415
removed from the list compiled under division (A) of section 416
323.67 of the Revised Code and may proceed to hear and adjudicate 417

the case pursuant to section 323.72 of the Revised Code.

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(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.

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(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.

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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:

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(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;

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(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

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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.

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(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

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of the Revised Code.

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(C) If a lienholder or another person having a security 481
interest of record in the abandoned land, other than the owner, 482
timely files an answer under division (A)(2) of this section and 483
requests that the complaint be dismissed and the parcel of land be 484
removed from the list compiled under division (A) of section 485
323.67 of the Revised Code and not disposed of as provided in 486
sections 323.65 to 323.78 of the Revised Code in order to preserve 487
the lienholder's or other person's security interest, the county 488
board of revision may approve the request if the board finds that 489
the sale or other conveyance of the parcel of land under those 490
sections would unreasonably jeopardize the lienholder's or other 491
person's ability to enforce the security interest or to otherwise 492
preserve the lienholder's or other person's security interest. The 493
board may approve the request, by board order, without conducting 494
a hearing, but shall not disapprove the request unless and until a 495
hearing is held on the request and the board makes a ruling based 496
on the available and submitted evidence of the parties. If the 497
board approves the request without a hearing, the board shall file 498
the decision with the clerk of court, and the clerk shall send a 499
notice of the decision to the lienholder or other person by 500
ordinary mail. In order for a lienholder or other person having a 501
security interest to show for purposes of this division that the 502
parcel of abandoned land should be removed from the list in order 503
"to preserve the lienholder's or other person's security 504
interest," the lienholder or other person must make a minimum 505
showing by a preponderance of the evidence pursuant to section 506
323.71 of the Revised Code that the impositions against the parcel 507
of abandoned land do not exceed the fair market value of the 508
abandoned land as determined by the auditor's then-current 509
valuation of that parcel, which valuation is presumed, subject to 510
rebuttal, to be the fair market value of the land. 511

(D) If an answer as described in division (B) or (C) of this 512
section is filed and the county board of revision approves a 513
request made under those divisions, regardless of whether a 514
hearing is conducted under division (C) of this section, the board 515
shall send notice of its approval to the prosecuting attorney or 516
the certificate holder that filed the complaint for foreclosure, 517
and shall dismiss the complaint and remove the abandoned land from 518
the list compiled under division (A) of section 323.67 of the 519
Revised Code. Thereafter, the land shall not be disposed of by 520
sale or otherwise conveyed pursuant to sections 323.65 to 323.78 521
of the Revised Code unless the record owner, lienholder, or other 522
person who filed the answer first consents to proceedings under 523
those sections by filing written notice with the board. If a 524
record owner, lienholder, or other person so consents, the 525
proceedings may recommence as provided in sections 323.65 to 526
323.78 of the Revised Code with the reentry of the land on the 527
list and the conducting of a new title search. 528

If the county board of revision does not, under division 529
(A)(2) or (4) of section 323.71 of the Revised Code, dismiss the 530
complaint and remove the abandoned land from the list compiled 531
under division (A) of section 323.67 of the Revised Code or does 532
not approve a request as described in division (B) or (C) of this 533
section after conducting a hearing, the board shall proceed with 534
the final hearing prescribed in section 323.70 of the Revised Code 535
and file its decision on the complaint for foreclosure with the 536
clerk of court. The clerk shall send written notice of the 537
decision to the parties by ordinary mail or by certified mail, 538
return receipt requested. If the board renders a decision ordering 539
the foreclosure and forfeiture of the parcel of abandoned land, 540
the parcel shall be disposed of under section 323.73 of the 541
Revised Code. 542

Sec. 323.73. (A) Except as provided in division (G) of this 543
section, a parcel of abandoned land that is to be disposed of 544
under this section shall be disposed of at a public auction 545
scheduled and conducted as described in this section. At least 546
twenty-one days prior to the date of the public auction, the clerk 547
of court or sheriff of the county shall advertise the public 548
auction in a newspaper of general circulation in the county in 549
which the land is located. The advertisement shall include the 550
street address, if available, of the abandoned land to be sold at 551
the public auction, the date, time, and place of the auction, the 552
permanent parcel number of the land if a permanent parcel number 553
system is in effect in the county as provided in section 319.28 of 554
the Revised Code, and a notice stating that the abandoned land is 555
to be sold subject to the terms of sections 323.65 to 323.78 of 556
the Revised Code. 557

(B) The sheriff of the county or a designee of the sheriff 558
shall conduct the public auction at which the abandoned land will 559
be offered for sale. To qualify as a bidder, a person shall file 560
with the sheriff on a form provided by the sheriff a written 561
acknowledgment that the abandoned land being offered for sale is 562
to be conveyed in fee simple to the successful bidder. At the 563
auction, the sheriff of the county or a designee of the sheriff 564
shall begin the bidding at an amount equal to the total of the 565
impositions against the abandoned land, plus the costs apportioned 566
to the land under section 323.75 of the Revised Code. The 567
abandoned land shall be sold to the highest bidder. The county 568
sheriff or designee may reject any and all bids not meeting the 569
minimum bid requirements specified in this division. 570

(C) Except as otherwise permitted under section 323.74 of the 571
Revised Code, the successful bidder at a public auction conducted 572
under this section shall pay the sheriff of the county or a 573

designee of the sheriff a deposit of at least ten per cent of the 574
purchase price in cash, or by bank draft or official bank check, 575
at the time of the public auction, and shall pay the balance of 576
the purchase price to the county treasurer within thirty days 577
after the day on which the auction was held. Notwithstanding 578
section 321.261 of the Revised Code, with respect to abandoned 579
land foreclosed pursuant to sections 323.65 to 323.78 of the 580
Revised Code, from the total proceeds arising from the sale of 581
that land, the greater of twenty per cent of such proceeds, or the 582
amount necessary under division (B) of section 323.75 of the 583
Revised Code to reimburse the delinquent tax and assessment 584
collection fund for the costs paid from the fund with respect to 585
the abandoned land sold at the public auction, shall be deposited 586
to the credit of that fund. The balance of the proceeds, if any, 587
shall be distributed to the appropriate political subdivisions and 588
other taxing units in proportion to their respective claims for 589
taxes, assessments, interest, and penalties on the land. 590

(D) Upon the sale of abandoned land pursuant to this section, 591
the owner's fee simple interest in the land shall be conveyed to 592
the purchaser. A conveyance under this division is free and clear 593
of any liens and encumbrances of the parties named in the 594
complaint for foreclosure attaching before the sale, and free and 595
clear of any liens for taxes, except for federal tax liens and 596
covenants and easements of record attaching before the sale. 597

(E) The county board of revision shall reject the sale of 598
abandoned land to any person delinquent in the payment of taxes 599
levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 600
5741., or 5743. of the Revised Code or any real property taxing 601
provision of the Revised Code. The board also shall reject the 602
sale of abandoned land to any person delinquent in the payment of 603
property taxes on any parcel in the county, or to a member of any 604
of the following classes of parties connected to that person: 605

- (1) A member of that person's immediate family; 606
- (2) Any other person with a power of attorney appointed by 607
that person; 608
- (3) A sole proprietorship owned by that person or a member of 609
that person's immediate family; 610
- (4) A partnership, trust, business trust, corporation, 611
association, or other entity in which that person or a member of 612
that person's immediate family owns or controls directly or 613
indirectly any beneficial or legal interest. 614
- (F) If the purchase of abandoned land sold pursuant to this 615
section is for less than the sum of the impositions against the 616
abandoned land and the costs apportioned to the land under 617
division (A) of section 323.75 of the Revised Code, upon the sale, 618
all liens for taxes due at the time the deed of the property is 619
conveyed to the purchaser following the sale, and liens 620
subordinate to liens for taxes, shall be deemed satisfied and 621
discharged. 622
- (G) If the county board of revision finds that the total of 623
the impositions against the abandoned land are greater than the 624
fair market value of the abandoned land as determined by the 625
auditor's then-current valuation of that land, the board may order 626
the property foreclosed and, without an appraisal or public 627
auction, order the sheriff to execute a deed to the certificate 628
holder that filed a complaint under section 323.69 of the Revised 629
Code, or to a community development organization, municipal 630
corporation, county, or township, whichever is applicable, as 631
provided in section 323.74 of the Revised Code. Upon a transfer 632
under this division, all liens for taxes due at the time the deed 633
of the property is transferred to the certificate holder, 634
community development organization, municipal corporation, county, 635
or township following the conveyance, and liens subordinate to 636

liens for taxes, shall be deemed satisfied and discharged.

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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.

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(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.

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(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

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representation that the petitioner will commence, not later than 668
thirty days after receiving legal title to the abandoned land, 669
basic exterior improvements that will protect the land from 670
further unreasonable deterioration. The improvements shall 671
include, but are not limited to, the removal of trash and refuse 672
from the exterior of the premises and the securing of open, 673
vacant, or vandalized areas on the exterior of the premises. 674

(D) The county board of revision, by resolution, may certify 675
to the sheriff that it has entered an adjudication of foreclosure 676
and forfeiture against the abandoned land and order the sheriff to 677
dispose of the abandoned land as prescribed in this division. The 678
order by the board shall include instructions to the sheriff to 679
transfer the land to the specified community development 680
organization, municipal corporation, county, or township after 681
payment of the costs of disposing of the abandoned land pursuant 682
to section 323.75 of the Revised Code or, if any negotiated price 683
has been agreed to between the county treasurer and the community 684
development organization, municipal corporation, county, or 685
township, after payment of that negotiated price as certified by 686
the board to the sheriff. 687

(E) Upon receipt of a certification and payment under this 688
section, the sheriff shall convey by sheriff's deed the owner's 689
fee simple interest in, and to, the abandoned land. If the 690
abandoned land is transferred pursuant to division (D) of this 691
section, the county treasurer may waive, but is not required to 692
wave, some or all of the impositions against the abandoned land 693
or costs apportioned to the land under section 323.75 of the 694
Revised Code if the county treasurer determines, in the 695
treasurer's reasonable discretion, that the transfer of the 696
abandoned property will result in the property being occupied. 697

(F) Upon a transfer under this section, all liens for taxes 698
due at the time the deed of the property is conveyed to a 699

purchaser or transferred to a community development organization, 700
municipal corporation, county, or township, and liens subordinate 701
to liens for taxes, shall be deemed satisfied and discharged. 702

Sec. 323.75. (A) The county treasurer shall apportion the 703
costs of the proceedings with respect to abandoned lands offered 704
for sale at a public auction held pursuant to section 323.73 or 705
323.74 of the Revised Code among those lands either equally or in 706
proportion to the fair market values of the lands. The costs of 707
the proceedings include the costs of conducting the title search, 708
notifying record owners or other persons required to be notified 709
of the pending sale, advertising the sale, and any other costs 710
incurred by the county board of revision, county treasurer, county 711
auditor, clerk of court, prosecuting attorney, or county sheriff 712
in performing their duties under sections 323.65 to 323.78 of the 713
Revised Code. 714

(B) All costs assessed in connection with proceedings under 715
sections 323.65 to 323.78 of the Revised Code may be paid as they 716
are incurred, as follows: 717

(1) If the abandoned land in question is purchased at public 718
auction, from the purchaser of the abandoned land; 719

(2) In the case of abandoned land transferred to a community 720
development organization, municipal corporation, county, or 721
township pursuant to division (D) of section 323.74 of the Revised 722
Code, from either of the following: 723

(a) From the delinquent tax and assessment collection fund 724
created under section 321.261 of the Revised Code; 725

(b) In the reasonable discretion of the county treasurer, 726
from the community development organization, municipal 727
corporation, county, or township, whichever is applicable, by 728
mutual agreement between the organization, municipal corporation, 729

county, or township and the treasurer.

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(3) If the abandoned land in question is transferred to a
certificate holder, from the certificate holder.

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(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.

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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:

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(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;

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(B) In the case of a transfer of the land to a community
development organization, municipal corporation, county, or

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township pursuant to division (D) of section 323.74 of the Revised 760
Code, upon the filing with the clerk of court of a copy of the 761
resolution of the county board of revision certifying the entry of 762
an adjudication of foreclosure and forfeiture of the land and of 763
the order to the sheriff to transfer the land in fee simple to the 764
community development organization, municipal corporation, county, 765
or township, which the clerk shall enter upon the journal of the 766
court or a separate journal; 767

(C) In the case of a transfer of the land to a certificate 768
holder pursuant to division (G) of section 323.73 of the Revised 769
Code, upon the filing with the clerk of court of a copy of the 770
county board of revision's order to the sheriff to execute a deed 771
to the certificate holder, which the clerk shall enter upon the 772
journal of the court or a separate journal. 773

Sec. 323.77. (A) As used in this section, "electing 774
subdivision" has the same meaning as in section 5722.01 of the 775
Revised Code. 776

(B) At any time from the date the complaint for foreclosure 777
is filed under section 323.69 of the Revised Code, but not later 778
than sixty days after the date on which the land was first offered 779
for sale, an electing subdivision may give the county treasurer 780
notice in writing that it seeks to acquire any parcel of abandoned 781
land, identified by parcel number, from the list compiled by the 782
county treasurer pursuant to division (A) of section 323.67 of the 783
Revised Code. If any such parcel of abandoned land identified 784
under this section is offered for sale pursuant to section 323.73 785
of the Revised Code, but is not sold for want of a minimum bid, 786
the electing subdivision that identified that parcel of abandoned 787
land shall be deemed to have submitted the winning bid at the 788
auction, and the parcel of abandoned land shall be sold to the 789
electing subdivision for no consideration other than the costs 790

prescribed in section 323.75 of the Revised Code or those costs to 791
which the electing subdivision and the county treasurer mutually 792
agree. The conveyance shall be confirmed, and any common law or 793
statutory right of redemption forever terminated, upon the filing 794
with the clerk of court of a copy of the resolution of the county 795
board of revision certifying the entry of an adjudication of 796
foreclosure and forfeiture of the land and the order to the 797
sheriff to convey the land in fee simple to the electing 798
subdivision, which the clerk shall enter upon the journal of the 799
court or a separate journal. 800

Sec. 323.78. Any party to any proceeding instituted pursuant 801
to sections 323.65 to 323.78 of the Revised Code who is aggrieved 802
in any of the proceedings of the county board of revision under 803
those sections may file an appeal in the court of common pleas 804
pursuant to Chapters 2505. and 2506. of the Revised Code upon a 805
final order of foreclosure and forfeiture by the board. A final 806
order of foreclosure and forfeiture occurs upon confirmation of 807
any sale or upon confirmation of any conveyance or transfer to a 808
certificate holder, community development organization, municipal 809
corporation, county, or township pursuant to sections 323.65 to 810
323.78 of the Revised Code. An appeal as provided in this section 811
shall proceed as an appeal de novo and may include issues raised 812
or adjudicated in the proceedings before the county board of 813
revision, as well as other issues that are raised for the first 814
time on appeal and that are pertinent to the abandoned land that 815
is the subject of those proceedings. 816

An appeal shall be filed not later than fourteen days after 817
the date on which the order of confirmation of the sale or of the 818
conveyance or transfer to a certificate holder, community 819
development organization, municipal corporation, county, or 820
township is filed with and journalized by the clerk of court. The 821

court does not have jurisdiction to hear any appeal filed after 822
the expiration of that fourteen-day period. If the fourteenth day 823
after the date on which the confirmation is filed with the clerk 824
of court falls upon a weekend or official holiday during which the 825
court is closed, then the filing shall be made on the next day the 826
court is open for business. 827

Sec. 5323.01. As used in this chapter: 828

(A) "Hotel" has the same meaning as in section 3731.01 of the 829
Revised Code. 830

(B) "Manufactured home" has the same meaning as in section 831
3781.06 of the Revised Code. 832

(C) "Mobile home" and "recreational vehicle" have the same 833
meanings as in section 4501.01 of the Revised Code. 834

(D) "Political subdivision" means a county, township, 835
municipal corporation, or other body corporate and politic that is 836
responsible for government activities in a geographic area smaller 837
than that of the state. 838

(E) "Residential rental property" means real property on 839
which is located one or more dwelling units leased or otherwise 840
rented to tenants solely for residential purposes, or a mobile 841
home park or other permanent or semipermanent site at which lots 842
are leased or otherwise rented to tenants for the parking of a 843
manufactured home, mobile home, or recreational vehicle that is 844
used solely for residential purposes. "Residential rental 845
property" does not include a hotel or a college or university 846
dormitory. 847

Sec. 5323.02. (A) An owner of residential rental property 848
shall file with the county auditor of the county in which the 849
property is located the following information: 850

<u>(1) The name, address, and telephone number of the owner;</u>	851
<u>(2) If the residential rental property is owned by a trust,</u>	852
<u>business trust, estate, partnership, limited partnership, limited</u>	853
<u>liability company, association, corporation, or any other business</u>	854
<u>entity, the name, address, and telephone number of the following:</u>	855
<u>(a) A trustee, in the case of a trust or business trust;</u>	856
<u>(b) The executor or administrator, in the case of an estate;</u>	857
<u>(c) A general partner, in the case of a partnership or a</u>	858
<u>limited partnership;</u>	859
<u>(d) A member, manager, or officer, in the case of a limited</u>	860
<u>liability company;</u>	861
<u>(e) An associate, in the case of an association;</u>	862
<u>(f) An officer, in the case of a corporation;</u>	863
<u>(g) A member, manager, or officer, in the case of any other</u>	864
<u>business entity.</u>	865
<u>(3) The street address and permanent parcel number of the</u>	866
<u>residential rental property;</u>	867
<u>(4) If the residential rental property has dwelling units</u>	868
<u>that are leased or otherwise rented to tenants, the year the units</u>	869
<u>were built.</u>	870
<u>(B) The information required under division (A) of this</u>	871
<u>section shall be filed and maintained in a manner to be determined</u>	872
<u>by the county auditor.</u>	873
<u>(C) An owner of residential rental property shall update the</u>	874
<u>information required under division (A) of this section within ten</u>	875
<u>days after any change in the information occurs.</u>	876
<u>Sec. 5323.03. An owner of residential rental property who</u>	877
<u>resides outside the state shall designate, in a manner to be</u>	878

determined by the county auditor of the county in which the 879
property is located, an individual who resides in the state to 880
serve as the owner's agent for the acceptance of service of 881
process on behalf of the owner in any legal action or proceeding 882
in the state, unless the owner previously designated and continues 883
to maintain a statutory agent for the service of process with the 884
secretary of state as a condition of being authorized to engage in 885
business in this state pursuant to another section of the Revised 886
Code. 887

An owner who designates an agent pursuant to this section 888
shall file in writing with the relevant county auditor the name, 889
address, and telephone number of the agent. An owner who 890
previously designated and continues to maintain a statutory agent 891
for the service of process with the secretary of state as a 892
condition of being authorized to engage in business in this state 893
pursuant to another section of the Revised Code shall file in 894
writing with the county auditor of the county in which the 895
residential rental property is located a certified copy of the 896
document filed with the secretary of state containing that 897
designation. 898

Sec. 5323.04. (A) All information filed with a county auditor 899
under this chapter is a public record under section 149.43 of the 900
Revised Code. 901

(B) An owner of residential rental property who complies with 902
the requirements of this chapter shall be deemed to be in full 903
compliance with any request by the state or any political 904
subdivision to that owner for information that is identical to the 905
information filed with the county auditor under this chapter. 906

Sec. 5323.99. No owner of residential rental property shall 907
fail to comply with the filing or updating of information 908

requirements of section 5323.02 of the Revised Code or shall fail 909
to satisfy the designation of agent requirement or the filing of 910
the appropriate designation of agent document requirement of 911
section 5323.03 of the Revised Code. Whoever violates this section 912
is guilty of a minor misdemeanor. 913

Sec. 5715.19. (A) As used in this section, "member" has the 914
same meaning as in section 1705.01 of the Revised Code. 915

(1) Subject to division (A)(2) of this section, a complaint 916
against any of the following determinations for the current tax 917
year shall be filed with the county auditor on or before the 918
thirty-first day of March of the ensuing tax year or the date of 919
closing of the collection for the first half of real and public 920
utility property taxes for the current tax year, whichever is 921
later: 922

(a) Any classification made under section 5713.041 of the 923
Revised Code; 924

(b) Any determination made under section 5713.32 or 5713.35 925
of the Revised Code; 926

(c) Any recoupment charge levied under section 5713.35 of the 927
Revised Code; 928

(d) The determination of the total valuation or assessment of 929
any parcel that appears on the tax list, except parcels assessed 930
by the tax commissioner pursuant to section 5727.06 of the Revised 931
Code; 932

(e) The determination of the total valuation of any parcel 933
that appears on the agricultural land tax list, except parcels 934
assessed by the tax commissioner pursuant to section 5727.06 of 935
the Revised Code; 936

(f) Any determination made under division (A) of section 937

319.302 of the Revised Code.

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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. 970

No person, board, or officer shall file a complaint against 971
the valuation or assessment of any parcel that appears on the tax 972
list if it filed a complaint against the valuation or assessment 973
of that parcel for any prior tax year in the same interim period, 974
unless the person, board, or officer alleges that the valuation or 975
assessment should be changed due to one or more of the following 976
circumstances that occurred after the tax lien date for the tax 977
year for which the prior complaint was filed and that the 978
circumstances were not taken into consideration with respect to 979
the prior complaint: 980

(a) The property was sold in an arm's length transaction, as 981
described in section 5713.03 of the Revised Code; 982

(b) The property lost value due to some casualty; 983

(c) Substantial improvement was added to the property; 984

(d) An increase or decrease of at least fifteen per cent in 985
the property's occupancy has had a substantial economic impact on 986
the property. 987

(3) If a county board of revision, the board of tax appeals, 988
or any court dismisses a complaint filed under this section or 989
section 5715.13 of the Revised Code for the reason that the act of 990
filing the complaint was the unauthorized practice of law or the 991
person filing the complaint was engaged in the unauthorized 992
practice of law, the party affected by a decrease in valuation or 993
the party's agent, or the person owning taxable real property in 994
the county or in a taxing district with territory in the county, 995
may refile the complaint, notwithstanding division (A)(2) of this 996
section. 997

(B) Within thirty days after the last date such complaints 998
may be filed, the auditor shall give notice of each complaint in 999

which the stated amount of overvaluation, undervaluation, 1000
discriminatory valuation, illegal valuation, or incorrect 1001
determination is at least seventeen thousand five hundred dollars 1002
to each property owner whose property is the subject of the 1003
complaint, if the complaint was not filed by the owner or the 1004
owner's spouse, and to each board of education whose school 1005
district may be affected by the complaint. Within thirty days 1006
after receiving such notice, a board of education; a property 1007
owner; the owner's spouse; an individual who is retained by such 1008
an owner and who holds a designation from a professional 1009
assessment organization, such as the institute for professionals 1010
in taxation, the national council of property taxation, or the 1011
international association of assessing officers; a public 1012
accountant who holds a permit under section 4701.10 of the Revised 1013
Code, a general or residential real estate appraiser licensed or 1014
certified under Chapter 4763. of the Revised Code, or a real 1015
estate broker licensed under ~~chapter~~ Chapter 4735. of the Revised 1016
Code, who is retained by such a person; or, if the property owner 1017
is a firm, company, association, partnership, limited liability 1018
company, corporation, or trust, an officer, a salaried employee, a 1019
partner, a member, or trustee of that property owner, may file a 1020
complaint in support of or objecting to the amount of alleged 1021
overvaluation, undervaluation, discriminatory valuation, illegal 1022
valuation, or incorrect determination stated in a previously filed 1023
complaint or objecting to the current valuation. Upon the filing 1024
of a complaint under this division, the board of education or the 1025
property owner shall be made a party to the action. 1026

(C) Each board of revision shall notify any complainant and 1027
also the property owner, if the property owner's address is known, 1028
when a complaint is filed by one other than the property owner, by 1029
certified mail, not less than ten days prior to the hearing, of 1030
the time and place the same will be heard. The board of revision 1031

shall hear and render its decision on a complaint within ninety 1032
days after the filing thereof with the board, except that if a 1033
complaint is filed within thirty days after receiving notice from 1034
the auditor as provided in division (B) of this section, the board 1035
shall hear and render its decision within ninety days after such 1036
filing. 1037

(D) The determination of any such complaint shall relate back 1038
to the date when the lien for taxes or recoupment charges for the 1039
current year attached or the date as of which liability for such 1040
year was determined. Liability for taxes and recoupment charges 1041
for such year and each succeeding year until the complaint is 1042
finally determined and for any penalty and interest for nonpayment 1043
thereof within the time required by law shall be based upon the 1044
determination, valuation, or assessment as finally determined. 1045
Each complaint shall state the amount of overvaluation, 1046
undervaluation, discriminatory valuation, illegal valuation, or 1047
incorrect classification or determination upon which the complaint 1048
is based. The treasurer shall accept any amount tendered as taxes 1049
or recoupment charge upon property concerning which a complaint is 1050
then pending, computed upon the claimed valuation as set forth in 1051
the complaint. If a complaint filed under this section for the 1052
current year is not determined by the board within the time 1053
prescribed for such determination, the complaint and any 1054
proceedings in relation thereto shall be continued by the board as 1055
a valid complaint for any ensuing year until such complaint is 1056
finally determined by the board or upon any appeal from a decision 1057
of the board. In such case, the original complaint shall continue 1058
in effect without further filing by the original taxpayer, the 1059
original taxpayer's assignee, or any other person or entity 1060
authorized to file a complaint under this section. 1061

(E) If a taxpayer files a complaint as to the classification, 1062
valuation, assessment, or any determination affecting the 1063

taxpayer's own property and tenders less than the full amount of 1064
taxes or recoupment charges as finally determined, an interest 1065
charge shall accrue as follows: 1066

(1) If the amount finally determined is less than the amount 1067
billed but more than the amount tendered, the taxpayer shall pay 1068
interest at the rate per annum prescribed by section 5703.47 of 1069
the Revised Code, computed from the date that the taxes were due 1070
on the difference between the amount finally determined and the 1071
amount tendered. This interest charge shall be in lieu of any 1072
penalty or interest charge under section 323.121 of the Revised 1073
Code unless the taxpayer failed to file a complaint and tender an 1074
amount as taxes or recoupment charges within the time required by 1075
this section, in which case section 323.121 of the Revised Code 1076
applies. 1077

(2) If the amount of taxes finally determined is equal to or 1078
greater than the amount billed and more than the amount tendered, 1079
the taxpayer shall pay interest at the rate prescribed by section 1080
5703.47 of the Revised Code from the date the taxes were due on 1081
the difference between the amount finally determined and the 1082
amount tendered, such interest to be in lieu of any interest 1083
charge but in addition to any penalty prescribed by section 1084
323.121 of the Revised Code. 1085

(F) Upon request of a complainant, the tax commissioner shall 1086
determine the common level of assessment of real property in the 1087
county for the year stated in the request that is not valued under 1088
section 5713.31 of the Revised Code, which common level of 1089
assessment shall be expressed as a percentage of true value and 1090
the common level of assessment of lands valued under such section, 1091
which common level of assessment shall also be expressed as a 1092
percentage of the current agricultural use value of such lands. 1093
Such determination shall be made on the basis of the most recent 1094
available sales ratio studies of the commissioner and such other 1095

factual data as the commissioner deems pertinent. 1096

(G) A complainant shall provide to the board of revision all 1097
information or evidence within the complainant's knowledge or 1098
possession that affects the real property that is the subject of 1099
the complaint. A complainant who fails to provide such information 1100
or evidence is precluded from introducing it on appeal to the 1101
board of tax appeals or the court of common pleas, except that the 1102
board of tax appeals or court may admit and consider the evidence 1103
if the complainant shows good cause for the complainant's failure 1104
to provide the information or evidence to the board of revision. 1105

(H) In case of the pendency of any proceeding in court based 1106
upon an alleged excessive, discriminatory, or illegal valuation or 1107
incorrect classification or determination, the taxpayer may tender 1108
to the treasurer an amount as taxes upon property computed upon 1109
the claimed valuation as set forth in the complaint to the court. 1110
The treasurer may accept the tender. If the tender is not 1111
accepted, no penalty shall be assessed because of the nonpayment 1112
of the full taxes assessed. 1113

Sec. 5721.01. (A) As used in this chapter: 1114

(1) "Delinquent lands" means all lands upon which delinquent 1115
taxes, as defined in section 323.01 of the Revised Code, remain 1116
unpaid at the time a settlement is made between the county 1117
treasurer and auditor pursuant to division (C) of section 321.24 1118
of the Revised Code. 1119

(2) "Delinquent vacant lands" means all lands that have been 1120
delinquent lands for at least ~~five~~ two years and that are 1121
unimproved by any dwelling. 1122

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the 1123
Revised Code and in any other sections of the Revised Code to 1124
which those sections are applicable, a newspaper or newspaper of 1125

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. 1157

Lands that have been included in a previously published 1158
delinquent tax list shall not be included in the delinquent tax 1159
list so long as taxes have remained delinquent on such lands for 1160
the entire intervening time. 1161

In either list, there may be included lands that have been 1162
omitted in error from a prior list and lands with respect to which 1163
the auditor has received a certification that a delinquent tax 1164
contract has become void since the publication of the last 1165
previously published list, provided the name of the owner was 1166
stricken from a prior list under section 5721.02 of the Revised 1167
Code. 1168

(B)(1) The auditor shall cause the delinquent tax list and 1169
the delinquent vacant land tax list, if one is compiled, to be 1170
published twice within sixty days after the delivery of the 1171
delinquent land duplicate to the county treasurer, in a newspaper 1172
of general circulation in the county. The publication shall be 1173
printed in the English language. 1174

The auditor shall insert display notices of the forthcoming 1175
publication of the delinquent tax list and, if it is to be 1176
published, the delinquent vacant land tax list once a week for two 1177
consecutive weeks in a newspaper of general circulation in the 1178
county. The display notices shall contain the times and methods of 1179
payment of taxes provided by law, including information concerning 1180
installment payments made in accordance with a written delinquent 1181
tax contract. The display notice for the delinquent tax list also 1182
shall include a notice that an interest charge will accrue on 1183
accounts remaining unpaid after the last day of November unless 1184
the taxpayer enters into a written delinquent tax contract to pay 1185
such taxes in installments. The display notice for the delinquent 1186
vacant land tax list if it is to be published also shall include a 1187

notice that delinquent vacant lands in the list are lands on which 1188
taxes have remained unpaid for ~~five~~ two years after being 1189
certified delinquent, and that they are subject to foreclosure 1190
proceedings as provided in section 323.25 or 5721.18 of the 1191
Revised Code, or foreclosure and forfeiture proceedings as 1192
provided in section 5721.14 of the Revised Code. Each display 1193
notice also shall state that the lands are subject to a tax 1194
certificate sale under section 5721.32 or 5721.33 of the Revised 1195
Code, as the case may be, and shall include any other information 1196
that the auditor considers pertinent to the purpose of the notice. 1197
The display notices shall be furnished by the auditor to the 1198
newspapers selected to publish the lists at least ten days before 1199
their first publication. 1200

(2) Publication of the list or lists may be made by a 1201
newspaper in installments, provided the complete publication of 1202
each list is made twice during the sixty-day period. 1203

(3) There shall be attached to the delinquent tax list a 1204
notice that the delinquent lands will be certified for foreclosure 1205
by the auditor unless the taxes, assessments, interest, and 1206
penalties due and owing on them are paid. There shall be attached 1207
to the delinquent vacant land tax list, if it is to be published, 1208
a notice that delinquent vacant lands will be certified for 1209
foreclosure or foreclosure and forfeiture by the auditor unless 1210
the taxes, assessments, interest, and penalties due and owing on 1211
them are paid within twenty-eight days after the final publication 1212
of the notice. 1213

(4) The auditor shall review the first publication of each 1214
list for accuracy and completeness and may correct any errors 1215
appearing in the list in the second publication. 1216

(C) For the purposes of section 5721.18 of the Revised Code, 1217
land is first certified delinquent on the date of the 1218

certification of the delinquent land list containing that land. 1219

Sec. 5721.06. (A)(1) The form of the notice required to be 1220
attached to the published delinquent tax list by division (B)(3) 1221
of section 5721.03 of the Revised Code shall be in substance as 1222
follows: 1223

"DELINQUENT LAND TAX NOTICE 1224

The lands, lots, and parts of lots returned delinquent by the 1225
county treasurer of county, with the taxes 1226
assessments, interest, and penalties, charged against them 1227
agreeably to law, are contained and described in the following 1228
list: (Here insert the list with the names of the owners of such 1229
respective tracts of land or town lots as designated on the 1230
delinquent tax list. If, prior to seven days before the 1231
publication of the list, a delinquent tax contract has been 1232
entered into under section 323.31 of the Revised Code, the owner's 1233
name may be stricken from the list or designated by an asterisk 1234
shown in the margin next to the owner's name.) 1235

Notice is hereby given that the whole of such several lands, 1236
lots, or parts of lots will be certified for foreclosure by the 1237
county auditor pursuant to law unless the whole of the delinquent 1238
taxes, assessments, interest, and penalties are paid within one 1239
year or unless a tax certificate with respect to the parcel is 1240
sold under section 5721.32 or 5721.33 of the Revised Code. The 1241
names of persons who have entered into a written delinquent tax 1242
contract with the county treasurer to discharge the delinquency 1243
are designated by an asterisk or have been stricken from the 1244
list." 1245

(2) If the county treasurer has certified to the county 1246
auditor that the treasurer intends to offer for sale a tax 1247
certificate with respect to one or more parcels of delinquent land 1248
under section 5721.32 or 5721.33 of the Revised Code, the form of 1249

the notice shall include the following statement, appended after 1250
the second paragraph of the notice prescribed by division (A)(1) 1251
of this section: 1252

"Notice also is hereby given that a tax certificate may be 1253
offered for sale under section 5721.32 or 5721.33 of the Revised 1254
Code with respect to those parcels shown on this list. If a tax 1255
certificate on a parcel is purchased, the purchaser of the tax 1256
certificate acquires the state's or its taxing district's first 1257
lien against the property, and an additional interest charge of up 1258
to eighteen per cent per annum shall be assessed against the 1259
parcel. In addition, failure by the owner of the parcel to redeem 1260
the tax certificate may result in foreclosure proceedings against 1261
the parcel. No tax certificate shall be offered for sale if the 1262
owner of the parcel has either discharged the lien by paying to 1263
the county treasurer in cash the amount of delinquent taxes, 1264
assessments, penalties, interest, and charges charged against the 1265
property, or has entered into a valid delinquent tax contract 1266
pursuant to section 323.31 of the Revised Code to pay those 1267
amounts in installments." 1268

(B) The form of the notice required to be attached to the 1269
published delinquent vacant land tax list by division (B)(3) of 1270
section 5721.03 of the Revised Code shall be in substance as 1271
follows: 1272

"DELINQUENT VACANT LAND TAX NOTICE 1273

The delinquent vacant lands, returned delinquent by the 1274
county treasurer of..... county, with the taxes 1275
assessments, interest, and penalties charged against them 1276
according to law, and remaining delinquent for ~~five~~ two years, are 1277
contained and described in the following list: (here insert the 1278
list with the names of the owners of the respective tracts of land 1279
as designated on the delinquent vacant land tax list. If, prior to 1280
seven days before the publication of the list, a delinquent tax 1281

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 1313
shall be reported on and the amount of the tax applicable thereto 1314
shall be remitted with the return for the period in which the sale 1315
is made, and the amount of the tax shall become a legal charge in 1316
favor of the vendor and against the consumer. 1317

(B)(1)(a) If any sale is claimed to be exempt under division 1318
(E) of section 5739.01 of the Revised Code or under section 1319
5739.02 of the Revised Code, with the exception of divisions 1320
(B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the 1321
consumer must provide to the vendor, and the vendor must obtain 1322
from the consumer, a certificate specifying the reason that the 1323
sale is not legally subject to the tax. The certificate shall be 1324
in such form, and shall be provided either in a hard copy form or 1325
electronic form, as the tax commissioner prescribes. 1326

(b) A vendor that obtains a fully completed exemption 1327
certificate from a consumer is relieved of liability for 1328
collecting and remitting tax on any sale covered by that 1329
certificate. If it is determined the exemption was improperly 1330
claimed, the consumer shall be liable for any tax due on that sale 1331
under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 1332
5741. of the Revised Code. Relief under this division from 1333
liability does not apply to any of the following: 1334

(i) A vendor that fraudulently fails to collect tax; 1335

(ii) A vendor that solicits consumers to participate in the 1336
unlawful claim of an exemption; 1337

(iii) A vendor that accepts an exemption certificate from a 1338
consumer that claims an exemption based on who purchases or who 1339
sells property or a service, when the subject of the transaction 1340
sought to be covered by the exemption certificate is actually 1341
received by the consumer at a location operated by the vendor in 1342
this state, and this state has posted to its web site an exemption 1343

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 1375
contractee. This certification shall be in addition to an 1376
exemption certificate provided by the contractor to the vendor. A 1377
contractee that provides a certification under this division shall 1378
be deemed to be the consumer of all items purchased by the 1379
contractor under the claim of exemption, if it is subsequently 1380
determined that the exemption is not properly claimed. The 1381
certification shall be in such form as the tax commissioner 1382
prescribes. 1383

(C) As used in this division, "contractee" means a person who 1384
seeks to enter or enters into a contract or agreement with a 1385
contractor or vendor for the construction of real property or for 1386
the sale and installation onto real property of tangible personal 1387
property. 1388

Any contractor or vendor may request from any contractee a 1389
certification of what portion of the property to be transferred 1390
under such contract or agreement is to be incorporated into the 1391
realty and what portion will retain its status as tangible 1392
personal property after installation is completed. The contractor 1393
or vendor shall request the certification by certified mail 1394
delivered to the contractee, return receipt requested. Upon 1395
receipt of such request and prior to entering into the contract or 1396
agreement, the contractee shall provide to the contractor or 1397
vendor a certification sufficiently detailed to enable the 1398
contractor or vendor to ascertain the resulting classification of 1399
all materials purchased or fabricated by the contractor or vendor 1400
and transferred to the contractee. This requirement applies to a 1401
contractee regardless of whether the contractee holds a direct 1402
payment permit under section 5739.031 of the Revised Code or 1403
provides to the contractor or vendor an exemption certificate as 1404
provided under this section. 1405

For the purposes of the taxes levied by this chapter and 1406

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 1438
the assessment of tax on sales for which the vendor obtained no 1439
valid exemption certificates and for which the vendor failed to 1440
establish that the sales were properly not subject to the tax 1441
during the one-hundred-twenty-day period allowed under division 1442
(B) of this section, may present to the tax commissioner 1443
additional evidence to prove that the sales were properly subject 1444
to a claim of exception or exemption. The vendor shall file such 1445
evidence within ninety days of the receipt by the vendor of the 1446
notice of assessment, except that, upon application and for 1447
reasonable cause, the period for submitting such evidence shall be 1448
extended thirty days. 1449

The commissioner shall consider such additional evidence in 1450
reaching the final determination on the assessment and petition 1451
for reassessment. 1452

(F) Whenever a vendor refunds to the consumer the full price 1453
of an item of tangible personal property on which the tax imposed 1454
under this chapter has been paid, the vendor shall also refund the 1455
full amount of the tax paid. 1456

Sec. 5739.033. (A) Except as provided in division (B) of this 1457
section, divisions (C) to (I) of this section apply to sales made 1458
on and after May 1, 2006. Sales made before May 1, 2006, are 1459
subject to section 5739.035 of the Revised Code. On and after 1460
January 1, 2005, any vendor may irrevocably elect to comply with 1461
divisions (C) to (I) of this section for all of the vendor's sales 1462
and places of business in this state. 1463

The amount of tax due pursuant to sections 5739.02, 5739.021, 1464
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 1465
imposed pursuant to those sections at the sourcing location of the 1466
sale as determined under this section or, if applicable, under 1467
division (C) of section 5739.031 or section 5739.034 of the 1468

Revised Code, or at the situs of the sale as determined under 1469
section 5739.035 of the Revised Code. This section applies only to 1470
a vendor's or seller's obligation to collect and remit sales taxes 1471
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the 1472
Revised Code or use taxes under section 5741.02, 5741.021, 1473
5741.022, or 5741.023 of the Revised Code. Division (A) of this 1474
section does not apply in determining the jurisdiction for which 1475
sellers are required to collect the use tax under section 5741.05 1476
of the Revised Code. This section does not affect the obligation 1477
of a consumer to remit use taxes on the storage, use, or other 1478
consumption of tangible personal property or on the benefit 1479
realized of any service provided, to the jurisdiction of that 1480
storage, use, or consumption, or benefit realized. 1481

(B)(1) As used in this division, ~~"delivery:~~ 1482

(a) "Delivery sale" means the taxable sale of tangible 1483
personal property or a service that is received by a consumer, or 1484
a donee designated by the consumer, in a taxing jurisdiction that 1485
is not the taxing jurisdiction in which the vendor has a fixed 1486
place of business. 1487

(b) "Agreement" has the same meaning as in section 5740.01 of 1488
the Revised Code. 1489

(c) "Governing board" has the same meaning as in section 1490
5740.02 of the Revised Code. 1491

(2)(a) A vendor with total delivery sales in calendar year 1492
2005 that are less than thirty million dollars may continue to 1493
situs its sales under section 5739.035 of the Revised Code from 1494
May 1, 2006, through April 30, 2007, except that, if the tax 1495
commissioner does not enter a determination in the commissioner's 1496
journal under division (B)(2)(b) of this section, those dates 1497
shall be May 1, 2006, through December 31, 2007. 1498

(b) A On or before February 1, 2007, the tax commissioner 1499

shall determine whether certified service provider services are 1500
being provided by the governing board of the streamlined sales and 1501
use tax agreement for all delivery sales. If the commissioner 1502
determines that such services are being so provided, the 1503
commissioner shall enter the determination in the commissioner's 1504
journal and shall provide notice of the determination on the 1505
department of taxation's official internet web site. If the 1506
commissioner makes such an entry in the journal, then a vendor 1507
with total delivery sales in calendar year 2006 that are less than 1508
five million dollars may continue to situs its sales under section 1509
5739.035 of the Revised Code from May 1, 2007, through December 1510
31, 2007. 1511

~~(e)~~(3) Beginning January 1, 2008, all vendors shall source 1512
their sales under divisions (C) to (I) of this section. 1513

~~(3)~~(4) Once a vendor has total delivery sales that exceed the 1514
dollar amount in division (B)(2)(a) or (b) of this section, the 1515
vendor shall source its sales under divisions (C) to (I) of this 1516
section and shall continue to source its sales under those 1517
divisions, regardless of the amount of the vendor's total delivery 1518
sales in future years. 1519

(C) Except for sales, other than leases, of titled motor 1520
vehicles, titled watercraft, or titled outboard motors as provided 1521
in section 5741.05 of the Revised Code, or as otherwise provided 1522
in this section and section 5739.034 of the Revised Code, all 1523
sales shall be sourced as follows: 1524

(1) If the consumer or a donee designated by the consumer 1525
receives tangible personal property or a service at a vendor's 1526
place of business, the sale shall be sourced to that place of 1527
business. 1528

(2) When the tangible personal property or service is not 1529
received at a vendor's place of business, the sale shall be 1530

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 1562
place of business, or a service, and that knows at the time of 1563
purchase that such digital good, software, or service will be 1564
concurrently available for use in more than one taxing 1565
jurisdiction shall deliver to the vendor in conjunction with its 1566
purchase an exemption certificate claiming multiple points of use, 1567
or shall meet the requirements of division ~~(B)~~(D)(2) of this 1568
section. On receipt of the exemption certificate claiming multiple 1569
points of use, the vendor is relieved of its obligation to 1570
collect, pay, or remit the tax due, and the business consumer must 1571
pay the tax directly to the state. 1572

(b) A business consumer that delivers the exemption 1573
certificate claiming multiple points of use to a vendor may use 1574
any reasonable, consistent, and uniform method of apportioning the 1575
tax due on the digital good, computer software, or service that is 1576
supported by the consumer's business records as they existed at 1577
the time of the sale. The business consumer shall report and pay 1578
the appropriate tax to each jurisdiction where concurrent use 1579
occurs. The tax due shall be calculated as if the apportioned 1580
amount of the digital good, computer software, or service had been 1581
delivered to each jurisdiction to which the sale is apportioned 1582
under this division. 1583

(c) The exemption certificate claiming multiple points of use 1584
shall remain in effect for all future sales by the vendor to the 1585
business consumer until it is revoked in writing by the business 1586
consumer, except as to the business consumer's specific 1587
apportionment of a subsequent sale under division (D)(1)(b) of 1588
this section and the facts existing at the time of the sale. 1589

(2) When the vendor knows that a digital good, computer 1590
software, or service sold will be concurrently available for use 1591
by the business consumer in more than one jurisdiction, but the 1592
business consumer does not provide an exemption certificate 1593

claiming multiple points of use as required by division ~~(B)~~(D)(1) 1594
of this section, the vendor may work with the business consumer to 1595
produce the correct apportionment. Governed by the principles of 1596
division ~~(B)~~(D)(1)(b) of this section, the vendor and business 1597
consumer may use any reasonable, but consistent and uniform, 1598
method of apportionment that is supported by the vendor's and 1599
business consumer's books and records as they exist at the time 1600
the sale is reported for purposes of the taxes levied under this 1601
chapter. If the business consumer certifies to the accuracy of the 1602
apportionment and the vendor accepts the certification, the vendor 1603
shall collect and remit the tax accordingly. In the absence of bad 1604
faith, the vendor is relieved of any further obligation to collect 1605
tax on any transaction where the vendor has collected tax pursuant 1606
to the information certified by the business consumer. 1607

(3) When the vendor knows that the digital good, computer 1608
software, or service will be concurrently available for use in 1609
more than one jurisdiction, and the business consumer does not 1610
have a direct pay permit and does not provide to the vendor an 1611
exemption certificate claiming multiple points of use as required 1612
in division ~~(B)~~(D)(1) of this section, or certification pursuant 1613
to division ~~(B)~~(D)(2) of this section, the vendor shall collect 1614
and remit the tax based on division ~~(A)~~(C) of this section. 1615

(4) Nothing in this section shall limit a person's obligation 1616
for sales or use tax to any state in which a digital good, 1617
computer software, or service is concurrently available for use, 1618
nor limit a person's ability under local, state, or federal law, 1619
to claim a credit for sales or use taxes legally due and paid to 1620
other jurisdictions. 1621

(E) A person who holds a direct payment permit issued under 1622
section 5739.031 of the Revised Code is not required to deliver an 1623
exemption certificate claiming multiple points of use to a vendor. 1624
But such permit holder shall comply with division (D)(2) of this 1625

section in apportioning the tax due on a digital good, computer 1626
software, or a service for use in business that will be 1627
concurrently available for use in more than one taxing 1628
jurisdiction. 1629

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 1630
section, the consumer of direct mail that is not a holder of a 1631
direct payment permit shall provide to the vendor in conjunction 1632
with the sale either an exemption certificate claiming direct mail 1633
prescribed by the tax commissioner, or information to show the 1634
jurisdictions to which the direct mail is delivered to recipients. 1635

(2) Upon receipt of such exemption certificate, the vendor is 1636
relieved of all obligations to collect, pay, or remit the 1637
applicable tax and the consumer is obligated to pay that tax on a 1638
direct pay basis. An exemption certificate claiming direct mail 1639
shall remain in effect for all future sales of direct mail by the 1640
vendor to the consumer until it is revoked in writing. 1641

(3) Upon receipt of information from the consumer showing the 1642
jurisdictions to which the direct mail is delivered to recipients, 1643
the vendor shall collect the tax according to the delivery 1644
information provided by the consumer. In the absence of bad faith, 1645
the vendor is relieved of any further obligation to collect tax on 1646
any transaction where the vendor has collected tax pursuant to the 1647
delivery information provided by the consumer. 1648

(4) If the consumer of direct mail does not have a direct 1649
payment permit and does not provide the vendor with either an 1650
exemption certificate claiming direct mail or delivery information 1651
as required by division (F)(1) of this section, the vendor shall 1652
collect the tax according to division (C)(5) of this section. 1653
Nothing in division (F)(4) of this section shall limit a 1654
consumer's obligation to pay sales or use tax to any state to 1655
which the direct mail is delivered. 1656

(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 1687
pursuant to division (C) of this section. 1688

(2) A lease or rental of tangible personal property that 1689
requires recurring periodic payments shall be sourced as follows: 1690

(a) In the case of a motor vehicle, other than a motor 1691
vehicle that is transportation equipment, or an aircraft, other 1692
than an aircraft that is transportation equipment, such lease or 1693
rental shall be sourced as follows: 1694

(i) An accelerated tax payment on a lease or rental taxed 1695
pursuant to division (A)(2) of section 5739.02 of the Revised Code 1696
shall be sourced to the primary property location at the time the 1697
lease or rental is consummated. Any subsequent taxable charges on 1698
the lease or rental shall be sourced to the primary property 1699
location for the period in which the charges are incurred. 1700

(ii) For a lease or rental taxed pursuant to division (A)(3) 1701
of section 5739.02 of the Revised Code, each lease or rental 1702
installment shall be sourced to the primary property location for 1703
the period covered by the installment. 1704

(b) In the case of a lease or rental of all other tangible 1705
personal property, other than transportation equipment, such lease 1706
or rental shall be sourced as follows: 1707

(i) An accelerated tax payment on a lease or rental that is 1708
taxed pursuant to division (A)(2) of section 5739.02 of the 1709
Revised Code shall be sourced pursuant to division (C) of this 1710
section at the time the lease or rental is consummated. Any 1711
subsequent taxable charges on the lease or rental shall be sourced 1712
to the primary property location for the period in which the 1713
charges are incurred. 1714

(ii) For a lease or rental that is taxed pursuant to division 1715
(A)(3) of section 5739.02 of the Revised Code, the initial lease 1716

or rental installment shall be sourced pursuant to division (C) of 1717
this section. Each subsequent installment shall be sourced to the 1718
primary property location for the period covered by the 1719
installment. 1720

(3) As used in division (I) of this section, "primary 1721
property location" means an address for tangible personal property 1722
provided by the lessee or renter that is available to the lessor 1723
or owner from its records maintained in the ordinary course of 1724
business, when use of that address does not constitute bad faith. 1725

Sec. 5739.24. (A) As used in this section: 1726

(1) "Destination-based sourcing requirements" has the same 1727
meaning as in section 5739.123 of the Revised Code. 1728

(2) "Impacted county" means a county having a population of 1729
less than seventy-five thousand as of the decennial census of 2000 1730
taken by the United States census bureau. 1731

(3) "Master account holder" means a person that holds more 1732
than one vendor's license under division (A) of section 5739.17 of 1733
the Revised Code, operates in multiple tax jurisdictions under the 1734
same ownership, and files or is required to file a consolidated 1735
return under section 5739.12 of the Revised Code. 1736

(4) "Tax jurisdiction" means a county or, if applicable, the 1737
portion of a county in which a transit authority has territory. 1738

(B)(1) Beginning in 2006, within thirty days after the 1739
thirtieth day of June and the thirty-first day of December of each 1740
year, a master account holder that makes a sale that is subject to 1741
the destination-based sourcing requirements shall file with the 1742
tax commissioner a report that details the total taxable sales it 1743
made for the prior six-month period in each tax jurisdiction and 1744
at each fixed place of business for which the master account 1745
holder holds or should hold a license, irrespective of where those 1746

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 1778
to account for delinquent tax returns or reports. 1779

(2) In making the determination required by division (C)(1) 1780
of this section, the commissioner shall use the lesser of the 1781
county's tax rate in effect as of January 1, 2006, or the actual 1782
tax rate in effect for the six-month period for which the 1783
compensation was calculated. 1784

(3) The commissioner also shall calculate the percentage 1785
difference between the amounts determined under divisions 1786
(C)(1)(a) and (b) of this section by using a fraction, with the 1787
amount determined under division (C)(1)(a) of this section in the 1788
numerator, and the amount determined under division (C)(1)(b) of 1789
this section in the denominator. 1790

(D)(1) If the percentage difference calculated under division 1791
(C)(3) of this section for a county is ninety-six per cent or 1792
less, and the county is an impacted county under this section, the 1793
county shall receive compensation. Beginning in 2006, within 1794
ninety days after the thirty-first day of July each year and the 1795
thirty-first day of January of the following year, the tax 1796
commissioner, in the next ensuing payment to be made under 1797
division (B)(1) of section 5739.21 of the Revised Code, shall in 1798
addition provide from the general revenue fund to such county 1799
compensation in the amount of ninety-eight per cent of the 1800
denominator calculated under division (C)(3) of this section, 1801
minus the numerator calculated under division (C)(3) of this 1802
section. 1803

(2) A county that is entitled to compensation under division 1804
(D)(1) of this section may request an advance payment of that 1805
compensation. The commissioner shall adopt rules that establish 1806
the manner by which such county may make the request and the 1807
method the commissioner will use to determine the amount of the 1808

advance payment to be made to the county. Compensation provided 1809
under division (D)(1) of this section shall be adjusted 1810
accordingly to account for advance payments made under division 1811
(D)(2) of this section. 1812

(E) If, under division (C)(1) of this section, the tax 1813
commissioner determines that a county received more taxes under 1814
the destination-based sourcing requirements than it would have 1815
received if taxes had been paid in accordance with section 1816
5739.035 of the Revised Code, the county is a windfall county 1817
under this division. Beginning in 2006, within ninety days after 1818
the thirty-first day of July each year and the thirty-first day of 1819
January of the following year, the commissioner, in the next 1820
ensuing payment to be made under division (B)(1) of section 1821
5739.21 of the Revised Code, shall reduce the amount to be 1822
returned to each windfall county by the total amount of excess 1823
taxes that would have been received by all windfall counties in 1824
proportion to the total amount needed to compensate counties under 1825
division (D) of this section. 1826

(F) The commissioner shall make available to the public the 1827
determinations made under division (C) of this section, but any 1828
data obtained from taxpayers under this section or that would 1829
identify those taxpayers shall remain confidential. 1830

(G) There is hereby created the county compensation tax study 1831
committee. The committee shall consist of the following seven 1832
members: the tax commissioner, three members of the senate 1833
appointed by the president of the senate, and three members of the 1834
house of representatives appointed by the speaker of the house of 1835
representatives. The appointments shall be made not later than 1836
January 31, ~~2006~~ 2007. The tax commissioner shall be the 1837
chairperson of the committee and the department of taxation shall 1838
provide any information and assistance that is required by the 1839
committee to carry out its duties. The committee shall study the 1840

extent to which each county has been impacted by the 1841
destination-based sourcing requirements. Not later than June 30, 1842
~~2006~~ 2007, the committee shall issue a report of its findings and 1843
shall make recommendations to the president of the senate and the 1844
speaker of the house of representatives, at which time the 1845
committee shall cease to exist. 1846

Sec. 5741.02. (A)(1) For the use of the general revenue fund 1847
of the state, an excise tax is hereby levied on the storage, use, 1848
or other consumption in this state of tangible personal property 1849
or the benefit realized in this state of any service provided. The 1850
tax shall be collected as provided in section 5739.025 of the 1851
Revised Code, provided that on and after July 1, 2003, and on or 1852
before June 30, 2005, the rate of the tax shall be six per cent. 1853
On and after July 1, 2005, the rate of the tax shall be five and 1854
one-half per cent. 1855

(2) In the case of the lease or rental, with a fixed term of 1856
more than thirty days or an indefinite term with a minimum period 1857
of more than thirty days, of any motor vehicles designed by the 1858
manufacturer to carry a load of not more than one ton, watercraft, 1859
outboard motor, or aircraft, or of any tangible personal property, 1860
other than motor vehicles designed by the manufacturer to carry a 1861
load of more than one ton, to be used by the lessee or renter 1862
primarily for business purposes, the tax shall be collected by the 1863
seller at the time the lease or rental is consummated and shall be 1864
calculated by the seller on the basis of the total amount to be 1865
paid by the lessee or renter under the lease or rental agreement. 1866
If the total amount of the consideration for the lease or rental 1867
includes amounts that are not calculated at the time the lease or 1868
rental is executed, the tax shall be calculated and collected by 1869
the seller at the time such amounts are billed to the lessee or 1870
renter. In the case of an open-end lease or rental, the tax shall 1871
be calculated by the seller on the basis of the total amount to be 1872

paid during the initial fixed term of the lease or rental, and for 1873
each subsequent renewal period as it comes due. As used in this 1874
division, "motor vehicle" has the same meaning as in section 1875
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1876
unit attached to the watercraft. 1877

(3) Except as provided in division (A)(2) of this section, in 1878
the case of a transaction, the price of which consists in whole or 1879
part of the lease or rental of tangible personal property, the tax 1880
shall be measured by the installments of those leases or rentals. 1881

(B) Each consumer, storing, using, or otherwise consuming in 1882
this state tangible personal property or realizing in this state 1883
the benefit of any service provided, shall be liable for the tax, 1884
and such liability shall not be extinguished until the tax has 1885
been paid to this state; provided, that the consumer shall be 1886
relieved from further liability for the tax if the tax has been 1887
paid to a seller in accordance with section 5741.04 of the Revised 1888
Code or prepaid by the seller in accordance with section 5741.06 1889
of the Revised Code. 1890

(C) The tax does not apply to the storage, use, or 1891
consumption in this state of the following described tangible 1892
personal property or services, nor to the storage, use, or 1893
consumption or benefit in this state of tangible personal property 1894
or services purchased under the following described circumstances: 1895

(1) When the sale of property or service in this state is 1896
subject to the excise tax imposed by sections 5739.01 to 5739.31 1897
of the Revised Code, provided said tax has been paid; 1898

(2) Except as provided in division (D) of this section, 1899
tangible personal property or services, the acquisition of which, 1900
if made in Ohio, would be a sale not subject to the tax imposed by 1901
sections 5739.01 to 5739.31 of the Revised Code; 1902

(3) Property or services, the storage, use, or other 1903

consumption of or benefit from which this state is prohibited from 1904
taxing by the Constitution of the United States, laws of the 1905
United States, or the Constitution of this state. This exemption 1906
shall not exempt from the application of the tax imposed by this 1907
section the storage, use, or consumption of tangible personal 1908
property that was purchased in interstate commerce, but that has 1909
come to rest in this state, provided that fuel to be used or 1910
transported in carrying on interstate commerce that is stopped 1911
within this state pending transfer from one conveyance to another 1912
is exempt from the excise tax imposed by this section and section 1913
5739.02 of the Revised Code; 1914

(4) Transient use of tangible personal property in this state 1915
by a nonresident tourist or vacationer, or a ~~non-business~~ 1916
nonbusiness use within this state by a nonresident of this state, 1917
if the property so used was purchased outside this state for use 1918
outside this state and is not required to be registered or 1919
licensed under the laws of this state; 1920

(5) Tangible personal property or services rendered, upon 1921
which taxes have been paid to another jurisdiction to the extent 1922
of the amount of the tax paid to such other jurisdiction. Where 1923
the amount of the tax imposed by this section and imposed pursuant 1924
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 1925
exceeds the amount paid to another jurisdiction, the difference 1926
shall be allocated between the tax imposed by this section and any 1927
tax imposed by a county or a transit authority pursuant to section 1928
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 1929
to the respective rates of such taxes. 1930

As used in this subdivision, "taxes paid to another 1931
jurisdiction" means the total amount of retail sales or use tax or 1932
similar tax based upon the sale, purchase, or use of tangible 1933
personal property or services rendered legally, levied by and paid 1934
to another state or political subdivision thereof, or to the 1935

District of Columbia, where the payment of such tax does not	1936
entitle the taxpayer to any refund or credit for such payment.	1937
(6) The transfer of a used manufactured home or used mobile	1938
home, as defined by section 5739.0210 of the Revised Code, made on	1939
or after January 1, 2000;	1940
(7) Drugs that are or are intended to be distributed free of	1941
charge to a practitioner licensed to prescribe, dispense, and	1942
administer drugs to a human being in the course of a professional	1943
practice and that by law may be dispensed only by or upon the	1944
order of such a practitioner.	1945
(8) Computer equipment and related software leased from a	1946
lessor located outside this state and initially received in this	1947
state on behalf of the consumer by a third party that will retain	1948
possession of such property for not more than ninety days and that	1949
will, within that ninety-day period, deliver such property to the	1950
consumer at a location outside this state. Division (C)(8) of this	1951
section does not provide exemption from taxation for any otherwise	1952
taxable charges associated with such property while it is in this	1953
state or for any subsequent storage, use, or consumption of such	1954
property in this state by or on behalf of the consumer.	1955
(9) Cigarettes that have a wholesale value of three hundred	1956
dollars or less used, stored, or consumed, but not for resale, in	1957
any month.	1958
(D) The tax applies to the storage, use, or other consumption	1959
in this state of tangible personal property or services, the	1960
acquisition of which at the time of sale was excepted under	1961
division (E) of section 5739.01 of the Revised Code from the tax	1962
imposed by section 5739.02 of the Revised Code, but which has	1963
subsequently been temporarily or permanently stored, used, or	1964
otherwise consumed in a taxable manner.	1965
(E)(1)(a) If any transaction is claimed to be exempt under	1966

division (E) of section 5739.01 of the Revised Code or under 1967
section 5739.02 of the Revised Code, with the exception of 1968
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 1969
Code, the consumer shall provide to the seller, and the seller 1970
shall obtain from the consumer, a certificate specifying the 1971
reason that the transaction is not subject to the tax. The 1972
certificate shall be in such form, and shall be provided either in 1973
a hard copy form or electronic form, as the tax commissioner 1974
prescribes. 1975

(b) A seller that obtains a fully completed exemption 1976
certificate from a consumer is relieved of liability for 1977
collecting and remitting tax on any sale covered by that 1978
certificate. If it is determined the exemption was improperly 1979
claimed, the consumer shall be liable for any tax due on that sale 1980
under this chapter. Relief under this division from liability does 1981
not apply to any of the following: 1982

(i) A seller that fraudulently fails to collect tax; 1983

(ii) A seller that solicits consumers to participate in the 1984
unlawful claim of an exemption; 1985

(iii) A seller that accepts an exemption certificate from a 1986
consumer that claims an exemption based on who purchases or who 1987
sells property or a service, when the subject of the transaction 1988
sought to be covered by the exemption certificate is actually 1989
received by the consumer at a location operated by the seller in 1990
this state, and this state has posted to its web site an exemption 1991
certificate form that clearly and affirmatively indicates that the 1992
claimed exemption is not available in this state; 1993

(iv) A seller that accepts an exemption certificate from a 1994
consumer who claims a multiple points of use exemption under 1995
division ~~(B)~~(D) of section 5739.033 of the Revised Code, if the 1996
item purchased is tangible personal property, other than 1997

prewritten computer software. 1998

(2) The seller shall maintain records, including exemption 1999
certificates, of all sales on which a consumer has claimed an 2000
exemption, and provide them to the tax commissioner on request. 2001

(3) If no certificate is provided or obtained within ninety 2002
days after the date on which the transaction is consummated, it 2003
shall be presumed that the tax applies. Failure to have so 2004
provided or obtained a certificate shall not preclude a seller, 2005
within one hundred twenty days after the tax commissioner gives 2006
written notice of intent to levy an assessment, from either 2007
establishing that the transaction is not subject to the tax, or 2008
obtaining, in good faith, a fully completed exemption certificate. 2009

(4) If a transaction is claimed to be exempt under division 2010
(B)(13) of section 5739.02 of the Revised Code, the contractor 2011
shall obtain certification of the claimed exemption from the 2012
contractee. This certification shall be in addition to an 2013
exemption certificate provided by the contractor to the seller. A 2014
contractee that provides a certification under this division shall 2015
be deemed to be the consumer of all items purchased by the 2016
contractor under the claim of exemption, if it is subsequently 2017
determined that the exemption is not properly claimed. The 2018
certification shall be in such form as the tax commissioner 2019
prescribes. 2020

(F) A seller who files a petition for reassessment contesting 2021
the assessment of tax on transactions for which the seller 2022
obtained no valid exemption certificates, and for which the seller 2023
failed to establish that the transactions were not subject to the 2024
tax during the one-hundred-twenty-day period allowed under 2025
division (E) of this section, may present to the tax commissioner 2026
additional evidence to prove that the transactions were exempt. 2027
The seller shall file such evidence within ninety days of the 2028
receipt by the seller of the notice of assessment, except that, 2029

upon application and for reasonable cause, the tax commissioner 2030
may extend the period for submitting such evidence thirty days. 2031

(G) For the purpose of the proper administration of sections 2032
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 2033
of the tax hereby levied, it shall be presumed that any use, 2034
storage, or other consumption of tangible personal property in 2035
this state is subject to the tax until the contrary is 2036
established. 2037

(H) The tax collected by the seller from the consumer under 2038
this chapter is not part of the price, but is a tax collection for 2039
the benefit of the state, and of counties levying an additional 2040
use tax pursuant to section 5741.021 or 5741.023 of the Revised 2041
Code and of transit authorities levying an additional use tax 2042
pursuant to section 5741.022 of the Revised Code. Except for the 2043
discount authorized under section 5741.12 of the Revised Code and 2044
the effects of any rounding pursuant to section 5703.055 of the 2045
Revised Code, no person other than the state or such a county or 2046
transit authority shall derive any benefit from the collection of 2047
such tax. 2048

Section 2. That existing sections 5715.19, 5721.01, 5721.03, 2049
5721.06, 5739.03, 5739.033, 5739.24, and 5741.02 of the Revised 2050
Code are hereby repealed. 2051

Section 3. The amendment by this act of section 5715.19 of 2052
the Revised Code first applies to the filing of complaints for tax 2053
year 2005. Notwithstanding division (A) of that section, the 2054
deadline for filing a complaint under division (A)(1)(f) of that 2055
section, as amended, for tax year 2005 is December 31, 2006. 2056

Section 4. Section 5739.033 of the Revised Code is presented 2057
in this act as a composite of the section as amended by both Am. 2058
Sub. H.B. 66 and Am. Sub. S.B. 26 of the 126th General Assembly. 2059

The General Assembly, applying the principle stated in division	2060
(B) of section 1.52 of the Revised Code that amendments are to be	2061
harmonized if reasonably capable of simultaneous operation, finds	2062
that the composite is the resulting version of the section in	2063
effect prior to the effective date of the section as presented in	2064
this act.	2065