

As Introduced

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

H. B. No. 439

Representative Willamowski

—

A BILL

To amend sections 319.54, 1548.11, 1775.24, 2101.16, 1
2105.061, 2105.32, 2106.10, 2106.11, 2106.13, 2
2106.15, 2106.16, 2106.18, 2106.19, 2106.22, 3
2106.25, 2107.63, 2109.301, 2109.32, 2113.03, 4
2113.031, 2113.23, 2113.53, 2113.54, 2113.86, 5
2115.16, 2117.25, 2127.02, 2127.03, 2127.31, 6
2127.41, 2129.07, 2329.83, 4505.06, 4505.10, 7
4549.41, 5731.16, and 5731.37; to amend, for the 8
purpose of adopting new section numbers as 9
indicated in parentheses, sections 2106.10 10
(2106.21), 2106.11 (2106.22), 2106.13 (2106.23), 11
2106.15 (2106.24), 2106.16 (2106.25), 2106.18 12
(2106.26), 2106.19 (2106.27), 2106.20 (2106.31), 13
2106.22 (2106.32), 2106.24 (2106.36), and 2106.25 14
(2106.37); to enact new sections 2106.01, 2106.02, 15
2106.03, 2106.04, 2106.05, 2106.06, 2106.07, 16
2106.08, 2106.10, 2106.11, and 2106.13 and 17
sections 2106.09, 2106.12, and 2106.14; and to 18
repeal sections 2106.01, 2106.02, 2106.03, 19
2106.04, 2106.05, 2106.06, 2106.07, and 2106.08 of 20
the Revised Code to adopt generally the provisions 21
of the Uniform Probate Code in regard to the 22
elective share of a surviving spouse in the 23
augmented estate of the decedent spouse. 24

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

Section 1. That sections 319.54, 1548.11, 1775.24, 2101.16, 25
2105.061, 2105.32, 2106.10, 2106.11, 2106.13, 2106.15, 2106.16, 26
2106.18, 2106.19, 2106.22, 2106.25, 2107.63, 2109.301, 2109.32, 27
2113.03, 2113.031, 2113.23, 2113.53, 2113.54, 2113.86, 2115.16, 28
2117.25, 2127.02, 2127.03, 2127.31, 2127.41, 2129.07, 2329.83, 29
4505.06, 4505.10, 4549.41, 5731.16, and 5731.37 be amended; 30
sections 2106.10 (2106.21), 2106.11 (2106.22), 2106.13 (2106.23), 31
2106.15 (2106.24), 2106.16 (2106.25), 2106.18 (2106.26), 2106.19 32
(2106.27), 2106.20 (2106.31), 2106.22 (2106.32), 2106.24 33
(2106.36), and 2106.25 (2106.37) be amended, for the purpose of 34
adopting new section numbers as indicated in parentheses; and new 35
sections 2106.01, 2106.02, 2106.03, 2106.04, 2106.05, 2106.06, 36
2106.07, 2106.08, 2106.10, 2106.11, and 2106.13 and sections 37
2106.09, 2106.12, and 2106.14 of the Revised Code be enacted to 38
read as follows: 39

Sec. 319.54. (A) On all moneys collected by the county 40
treasurer on any tax duplicate of the county, other than estate 41
tax duplicates, and on all moneys received as advance payments of 42
personal property and classified property taxes, the county 43
auditor, on settlement with the treasurer and tax commissioner, on 44
or before the date prescribed by law for ~~such~~ the settlement or 45
any lawful extension of ~~such~~ that date, shall be allowed as 46
compensation for the county auditor's services the following 47
percentages: 48

(1) On the first one hundred thousand dollars, two and 49
one-half per cent; 50

(2) On the next two million dollars, eight thousand three 51
hundred eighteen ten-thousandths of one per cent; 52

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for ~~such the~~ settlement or any lawful extension of ~~such that~~ date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day ~~such the~~ settlement is delayed after the prescribed date. No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of ~~such that~~ date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) From all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, there shall be paid into the county treasury to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount to be determined by the county auditor, which shall not exceed the following percentages:

(1) On the first one hundred thousand dollars, three and one-half per cent;

(2) On the next three million dollars, one and three-eighths per cent;

(3) On the next three million dollars, one per cent;	84
(4) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent;	85 86
(5) On amounts exceeding one hundred fifty million dollars, six-tenths of one per cent.	87 88
Such <u>That</u> compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.	89 90 91 92
(C) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.	93 94 95 96
(D) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:	97 98 99 100 101
(1) Four per cent on the first one hundred thousand dollars;	102
(2) One-half of one per cent on all additional sums.	103
Such <u>The</u> percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county.	104 105 106
(E) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such <u>those</u> licenses one-half of one per cent of such <u>those</u> moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.	107 108 109 110 111 112 113

(F) The county auditor shall charge and receive fees as follows:	114 115
(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;	116 117
(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;	118 119 120 121 122
(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:	123 124 125 126 127 128 129 130
(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;	131 132 133
(b) Solely in order to provide or release security for a debt or obligation;	134 135
(c) To confirm or correct a deed previously executed and recorded;	136 137
(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;	138 139 140
(e) On sale for delinquent taxes or assessments;	141
(f) Pursuant to court order, to the extent that such the transfer is not the result of a sale effected or completed	142 143

pursuant to such <u>that</u> order;	144
(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;	145 146 147 148 149 150
(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;	151 152 153
(i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;	154 155
(j) When the value of the real property or the manufactured or mobile home or the value of the interest that is conveyed does not exceed one hundred dollars;	156 157 158
(k) Of an occupied residential property, including a manufactured or mobile home, being transferred to the builder of a new residence or to the dealer of a new manufactured or mobile home when the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;	159 160 161 162 163 164
(l) To a grantee other than a dealer in real property or in manufactured or mobile homes, solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or mobile home to others;	165 166 167 168
(m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;	169 170 171 172
(n) Pursuant to division (B) of section 317.22 of the Revised	173

Code, or section 2113.61 of the Revised Code, between spouses or	174
to a surviving spouse pursuant to section 5302.17 of the Revised	175
Code as it existed prior to April 4, 1985, between persons	176
pursuant to section 5302.17 or 5302.18 of the Revised Code on or	177
after April 4, 1985, to a person who is a surviving, survivorship	178
tenant pursuant to section 5302.17 of the Revised Code on or after	179
April 4, 1985, or pursuant to section 5309.45 of the Revised Code;	180
(o) To a trustee acting on behalf of minor children of the	181
deceased;	182
(p) Of an easement or right-of-way when the value of the	183
interest conveyed does not exceed one thousand dollars;	184
(q) Of property sold to a surviving spouse pursuant to	185
section 2106.16 <u>2106.25</u> of the Revised Code;	186
(r) To or from an organization exempt from federal income	187
taxation under section 501(c)(3) of the "Internal Revenue Code of	188
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such	189
<u>the</u> transfer is without consideration and is in furtherance of the	190
charitable or public purposes of such <u>that</u> organization;	191
(s) Among the heirs at law or devisees, including a surviving	192
spouse, of a common decedent, when no consideration in money is	193
paid or to be paid for the real property or manufactured or mobile	194
home;	195
(t) To a trustee of a trust, when the grantor of the trust	196
has reserved an unlimited power to revoke the trust;	197
(u) To the grantor of a trust by a trustee of the trust, when	198
the transfer is made to the grantor pursuant to the exercise of	199
the grantor's power to revoke the trust or to withdraw trust	200
assets;	201
(v) To the beneficiaries of a trust if the fee was paid on	202
the transfer from the grantor of the trust to the trustee or if	203

the transfer is made pursuant to trust provisions which became 204
irrevocable at the death of the grantor; 205

(w) To a corporation for incorporation into a sports facility 206
constructed pursuant to section 307.696 of the Revised Code; 207

(x) Between persons pursuant to section 5302.18 of the 208
Revised Code. 209

The auditor shall compute and collect the fee. The auditor 210
shall maintain a numbered receipt system, as prescribed by the tax 211
commissioner, and use ~~such~~ the receipt system to provide a receipt 212
to each person paying a fee. The auditor shall deposit the 213
receipts of the fees on conveyances in the county treasury daily 214
to the credit of the general fund of the county. 215

The real property transfer fee provided for in division 216
(F)(3) of this section shall be applicable to any conveyance of 217
real property presented to the auditor on or after January 1, 218
1968, regardless of its time of execution or delivery. 219

The transfer fee for a used manufactured home or used mobile 220
home shall be computed by and paid to the county auditor of the 221
county in which the home is located immediately prior to the 222
transfer. 223

Sec. 1548.11. (A) In the event of the transfer of ownership 224
of a watercraft or outboard motor by operation of law, as upon 225
inheritance, devise, bequest, order in bankruptcy, insolvency, 226
replevin, or execution of sale, or whenever the engine of a 227
watercraft is replaced by another engine, a watercraft or outboard 228
motor is sold to satisfy storage or repair charges, or 229
repossession is had upon default in performance of the terms of a 230
security agreement as provided in Chapter 1309. of the Revised 231
Code, a clerk of a court of common pleas, upon the surrender of 232
the prior certificate of title or the manufacturer's or importer's 233

certificate, or, ~~when~~ if that is not possible, upon presentation 234
of satisfactory proof to the clerk of ownership and rights of 235
possession to the watercraft or outboard motor, and upon payment 236
of the fee prescribed in section 1548.10 of the Revised Code and 237
presentation of an application for certificate of title, may issue 238
to the applicant a certificate of title to the watercraft or 239
outboard motor. Only an affidavit by the person or agent of the 240
person to whom possession of the watercraft or outboard motor has 241
passed, setting forth the facts entitling the person to possession 242
and ownership, together with a copy of the journal entry, court 243
order, or instrument upon which the claim of possession and 244
ownership is founded, is satisfactory proof of ownership and right 245
of possession. If the applicant cannot produce such proof of 246
ownership, the applicant may apply directly to the chief of the 247
division of watercraft and submit ~~such~~ evidence as that the 248
applicant has, and the chief, if the chief finds the evidence 249
sufficient, may authorize the clerk to issue a certificate of 250
title. If the chief finds the evidence insufficient, the applicant 251
may petition the court of common pleas for a court order ordering 252
the clerk to issue a certificate of title. The court shall grant 253
or deny the petition based on the sufficiency of the evidence 254
presented to the court. If, from the records in the office of the 255
clerk, there appears to be any lien on the watercraft or outboard 256
motor, the certificate of title shall contain a statement of the 257
lien unless the application is accompanied by proper evidence of 258
its extinction. 259

(B) Upon the death of one of the persons who have established 260
joint ownership with right of survivorship under section 2131.12 261
of the Revised Code in a watercraft or outboard motor and the 262
presentation to the clerk of the title and the certificate of 263
death of the deceased person, the clerk shall enter into the 264
records the transfer of the watercraft or outboard motor to the 265
surviving person, and the title to the watercraft or outboard 266

motor immediately passes to the surviving person. The transfer 267
does not affect any liens on the watercraft or outboard motor. 268

(C) The clerk shall transfer a decedent's interest in one 269
watercraft, one outboard motor, or one of each to the decedent's 270
surviving spouse as provided in section ~~2106.19~~ 2106.27 of the 271
Revised Code. 272

(D) Upon the death of an owner of a watercraft or outboard 273
motor designated in beneficiary form under section 2131.13 of the 274
Revised Code, upon application of the transfer-on-death 275
beneficiary or beneficiaries designated pursuant to that section, 276
and upon presentation to the clerk of the certificate of title and 277
the certificate of death of the deceased owner, the clerk shall 278
transfer the watercraft or outboard motor and issue a certificate 279
of title to the transfer-on-death beneficiary or beneficiaries. 280
The transfer does not affect any liens upon any watercraft or 281
outboard motor so transferred. 282

Sec. 1775.24. (A) A partner is co-owner with ~~his~~ the other 283
partners of specific partnership property holding as a tenant in 284
partnership. 285

(B) The incidents of this tenancy are ~~such that~~ the 286
following: 287

(1) A partner, subject to this chapter, and to any agreement 288
between the partners, has an equal right with ~~his~~ the other 289
partners to possess specific partnership property for partnership 290
purposes; but ~~he~~ a partner has no right to possess the property 291
for any other purpose without the consent of ~~his~~ the other 292
partners. 293

(2) A partner's right in specific partnership property is not 294
assignable except in connection with the assignment of rights of 295
all the partners in the same property. 296

(3) A partner's right in specific partnership property is not 297
subject to attachment or execution, except on a claim against the 298
partnership. When partnership property is attached for a 299
partnership debt, the partners, or any of them, or the 300
representatives of a deceased partner, cannot claim any right 301
under exemption laws. 302

(4) On the death of a partner, ~~his~~ the deceased partner's 303
right in specific partnership property vests in the surviving 304
partners, unless ~~he~~ the deceased partner was the last surviving 305
partner, in which case ~~his~~ the deceased partner's right in the 306
property vests in ~~his~~ the deceased partner's legal representative. 307
The surviving partners have, or the legal representative of the 308
last surviving partner has, no right to possess the partnership 309
property for any but a partnership purpose. This division is 310
subject to the procedures set forth in Chapter 1779. of the 311
Revised Code. 312

(5) A partner's right in specific partnership property is not 313
subject to dower, any statutory interest of a surviving spouse, 314
heirs, or next of kin, or any allowance to a surviving spouse, 315
minor children, or both a surviving spouse and minor children, 316
including, but not limited to, the allowance for support under 317
section ~~2106.13~~ 2106.23 of the Revised Code. 318

Sec. 2101.16. (A) The fees enumerated in this division shall 319
be charged and collected, if possible, by the probate judge and 320
shall be in full for all services rendered in the respective 321
proceedings: 322

- (1) Account, in addition to advertising charges \$12.00 323
 - Waivers and proof of notice of hearing on account, per 324
 - page, minimum one dollar \$ 1.00 325
- (2) Account of distribution, in addition to 326
 - advertising charges \$ 7.00 327

(3) Adoption of child, petition for	\$50.00	328
(4) Alter or cancel contract for sale or purchase of real estate, petition to	\$20.00	329 330
(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	\$ 5.00	331 332 333
(6) Appropriation suit, per day, hearing in	\$20.00	334
(7) Birth, application for registration of	\$ 7.00	335
(8) Birth record, application to correct	\$ 5.00	336
(9) Bond, application for new or additional	\$ 5.00	337
(10) Bond, application for release of surety or reduction of	\$ 5.00	338 339
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00	340
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00	341 342
(13) Citation and issuing citation, application for	\$ 5.00	343
(14) Change of name, petition for	\$20.00	344
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00	345 346
(16) Claim, application to compromise or settle	\$10.00	347
(17) Claim, authority to present	\$10.00	348
(18) Commissioner, appointment of	\$ 5.00	349
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00	350 351
(20) Competency, application to procure adjudication of ...	\$20.00	352
(21) Complete contract, application to	\$10.00	353
(22) Concealment of assets, citation for	\$10.00	354
(23) Construction of will, petition for	\$20.00	355
(24) Continue decedent's business, application to	\$10.00	356
Monthly reports of operation	\$ 5.00	357
(25) Declaratory judgment, petition for	\$20.00	358
(26) Deposit of will	\$ 5.00	359
(27) Designation of heir	\$20.00	360

(28) Distribution in kind, application, assent, and order for	\$ 5.00	361 362
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00	363 364
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00	365 366 367
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00	368 369
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00	370 371
(33) Election of surviving spouse under will	\$ 5.00	372
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	\$35.00	373 374 375
(35) Foreign will, application to record	\$10.00	376
Record of foreign will, additional, per page	\$ 1.00	377
(36) Forms when supplied by the probate court, not to exceed	\$10.00	378 379
(37) Heirship, petition to determine	\$20.00	380
(38) Injunction proceedings	\$20.00	381
(39) Improve real estate, petition to	\$20.00	382
(40) Inventory with appraisalment	\$10.00	383
(41) Inventory without appraisalment	\$ 7.00	384
(42) Investment or expenditure of funds, application for ..	\$10.00	385
(43) Invest in real estate, application to	\$10.00	386
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00	387 388
(45) Lease or lease and improve real estate, petition to ..	\$20.00	389
(46) Marriage license	\$10.00	390
Certified abstract of each marriage	\$ 2.00	391
(47) Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of	\$10.00	392 393

(48) Mortgage or mortgage and repair or improve real estate, petition to		394
	\$20.00	395
(49) Newly discovered assets, report of	\$ 7.00	396
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	\$20.00	397
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(51) Power of attorney or revocation of power, bonding company	\$10.00	399
		400
(52) Presumption of death, petition to establish	\$20.00	401
(53) Probating will	\$15.00	402
Proof of notice to beneficiaries	\$ 5.00	403
(54) Purchase personal property, application of surviving spouse to	\$10.00	404
		405
(55) Purchase real estate at appraised value, petition of surviving spouse to	\$20.00	406
		407
(56) Receipts in addition to advertising charges, application and order to record	\$ 5.00	408
		409
Record of those receipts, additional, per page	\$ 1.00	410
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00	411
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(58) Release of estate by mortgagee or other lienholder ...	\$ 5.00	413
(59) Relieving an estate from administration under section 2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code	\$60.00	414
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(60) Removal of fiduciary, application for	\$10.00	418
(61) Requalification of executor or administrator	\$10.00	419
(62) Resignation of fiduciary	\$ 5.00	420
(63) Sale bill, public sale of personal property	\$10.00	421
(64) Sale of personal property and report, application for	\$10.00	422
		423
(65) Sale of real estate, petition for	\$25.00	424
(66) Terminate guardianship, petition to	\$10.00	425
(67) Transfer of real estate, application, entry, and		426

certificate for	\$ 7.00	427
(68) Unclaimed money, application to invest	\$ 7.00	428
(69) Vacate approval of account or order of distribution, motion to	\$10.00	429 430
(70) Writ of execution	\$ 5.00	431
(71) Writ of possession	\$ 5.00	432
(72) Wrongful death, application and settlement of claim for	\$20.00	433 434
(73) Year's allowance, petition to review	\$ 7.00	435
(74) Guardian's report, filing and review of	\$ 5.00	436
(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.		437 438 439 440 441 442 443 444 445 446 447 448
(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.		449 450 451 452 453 454 455 456 457
(C) Thirty dollars of the thirty-five-dollar fee collected		458

pursuant to division (A)(34) of this section and twenty dollars of
the sixty-dollar fee collected pursuant to division (A)(59) of
this section shall be deposited by the county treasurer in the
indigent guardianship fund created pursuant to section 2111.51 of
the Revised Code.

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(D) The fees of witnesses, jurors, sheriffs, coroners, and
constables for services rendered in the probate court or by order
of the probate judge shall be the same as provided for ~~like~~
similar services in the court of common pleas.

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(E) The probate court, by rule, may require an advance
deposit for costs, not to exceed one hundred twenty-five dollars,
at the time application is made for an appointment as executor or
administrator or at the time a will is presented for probate.

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(F) The probate court, by rule, shall establish a reasonable
fee, not to exceed fifty dollars, for the filing of a petition for
the release of information regarding an adopted person's name by
birth and the identity of the adopted person's biological parents
and biological siblings pursuant to section 3107.41 of the Revised
Code, all proceedings relative to the petition, the entry of an
order relative to the petition, and all services required to be
performed in connection with the petition. The probate court may
use a reasonable portion of a fee charged under authority of this
division to reimburse any agency, as defined in section 3107.39 of
the Revised Code, for any services it renders in performing a task
described in section 3107.41 of the Revised Code relative to or in
connection with the petition for which the fee was charged.

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(G)(1) Thirty dollars of the fifty-dollar fee collected
pursuant to division (A)(3) of this section shall be deposited
into the "putative father registry fund," which is hereby created
in the state treasury. The department of job and family services
shall use the money in the fund to fund the department's costs of

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performing its duties related to the putative father registry 490
established under section 3107.062 of the Revised Code. 491

(2) If the department determines that money in the putative 492
father registry fund is more than is needed for its duties related 493
to the putative father registry, the department may use the 494
surplus moneys in the fund as permitted in division (C) of section 495
2151.3529, division (B) of section 2151.3530, or section 5103.155 496
of the Revised Code. 497

Sec. 2105.061. Except any real property that a surviving 498
spouse elects to receive under section ~~2106.10~~ 2106.21 of the 499
Revised Code, the title to real property in an intestate estate 500
shall descend and pass in parcenary to those persons entitled to 501
it under division (B), (C), or (D) of section 2105.06 of the 502
Revised Code, subject to the monetary charge of the surviving 503
spouse. The administrator or executor shall file an application 504
for a certificate of transfer as provided in section 2113.61 of 505
the Revised Code, and the application shall include a statement of 506
the amount of money that remains due and payable to the surviving 507
spouse as found by the probate court. The certificate of transfer 508
ordered by the probate court shall recite that the title to the 509
real property described in the certificate is subject to the 510
monetary charge in favor of the surviving spouse and shall recite 511
the value in dollars of the charge on the title to the real 512
property included in the certificate. 513

Sec. 2105.32. (A) Except as provided in section 2105.36 of 514
the Revised Code, a person who is not established by clear and 515
convincing evidence to have survived another specified person by 516
one hundred twenty hours is deemed to have predeceased the other 517
person for the following purposes: 518

(1) When the title to real or personal property or the 519

devolution of real or personal property depends upon a person's survivorship of the death of another person;

(2) When the right to elect an interest in or exempt a surviving spouse's share of an intestate estate under section 2105.06 of the Revised Code depends upon a person's survivorship of the death of another person;

(3) When the right to elect an interest in or exempt an interest of the decedent in the mansion house pursuant to section ~~2106.10~~ 2106.21 of the Revised Code depends upon a person's survivorship of the death of another person;

(4) When the right to elect an interest in or exempt an allowance for support pursuant to section ~~2106.13~~ 2106.23 of the Revised Code depends upon a person's survivorship of the death of another person.

(B) This section does not apply if its application would result in a taking of an intestate estate by the state.

Sec. 2106.01. As used in sections 2106.01 to 2106.14 of the Revised Code:

(A) "Decedent's nonprobate transfers to others" means the amounts that are included in the augmented estate under section 2106.05 of the Revised Code.

(B) "Beneficiary of a beneficiary designation" means a beneficiary named in an insurance policy, an annuity policy, an account with POD designation, a security registered in beneficiary form with TOD designation, a certificate of title of a motor vehicle, watercraft, or outboard motor with TOD designation, a transfer on death deed, a pension, profit sharing, retirement, Keogh, or similar benefit plan, or any other nonprobate transfer at death.

(C) "Fractional interest in property held in joint tenancy

with the right of survivorship," whether the fractional interest 550
is unilaterally severable or not, means the fraction, the 551
numerator of which is one and the denominator of which, if the 552
decedent was a joint tenant, is one plus the number of joint 553
tenants who survive the decedent and which, if the decedent was 554
not a joint tenant, is the number of joint tenants. 555

(D) "Governing instrument" means a deed, including, but not 556
limited to, a transfer on death deed; a will; a trust; an 557
insurance policy; an annuity policy; an account with POD 558
designation; a security registered in beneficiary form with TOD 559
designation; a certificate of title of a motor vehicle, 560
watercraft, or outboard motor with TOD designation; a pension, 561
profit sharing, retirement, Keogh, or similar benefit plan; an 562
instrument creating or exercising a power of appointment or a 563
power of attorney; or a dispositive, appointive, or nominative 564
instrument of a similar type as the instruments listed in this 565
division. 566

(E) "Marriage," as it relates to a transfer by the decedent 567
during marriage, means a marriage of the decedent to the 568
decedent's surviving spouse. 569

(F) "Nonadverse party" means a person who does not have a 570
substantial beneficial interest in a trust or other property 571
arrangement that would be adversely affected by the exercise or 572
nonexercise of the power that the person possesses respecting the 573
trust or other property arrangement. 574

(G) "Payor" means a trustee, insurer, business entity, 575
employer, government, governmental agency or subdivision, or any 576
other person authorized or obligated by law or a governing 577
instrument to make payments. 578

(H) "Power" or "power of appointment" includes a power to 579
designate the beneficiary of a beneficiary designation. 580

(I) "Presently exercisable general power of appointment" 581
means a power of appointment under which, at the time in question, 582
the decedent, whether or not the decedent then had the capacity to 583
exercise the power, held a power to create a present or future 584
interest in the decedent, the decedent's creditors, the decedent's 585
estate, or the creditors of the decedent's estate and includes a 586
power to revoke or invade the principal of a trust or other 587
property arrangement. 588

(J) "Probate estate" means property that would pass by 589
intestate succession if the decedent died without a valid will. 590

(K) "Property" means anything that is subject to ownership 591
and includes real property, personal property, an interest in real 592
or personal property, and the value of any property or interest in 593
property that is subject to a beneficiary designation. 594

(L) "Right to income" includes a right to payments under a 595
commercial or private annuity, an annuity trust, a unitrust, or a 596
similar arrangement. 597

(M) "Transfer," as it relates to a transfer by or of the 598
decedent, includes any of the following: 599

(1) An exercise or release of a presently exercisable general 600
power of appointment held by the decedent; 601

(2) A lapse at death of a presently exercisable general power 602
of appointment held by the decedent; 603

(3) An exercise, release, or lapse of a general power of 604
appointment that the decedent created in the decedent and of the 605
power described in division (B)(2) of section 2106.05 of the 606
Revised Code that the decedent conferred on a nonadverse party. 607

(N) A "beneficial interest" in property includes a general 608
power of appointment over the property. 609

(O) "Elective share amount" or "elective share" means the 610

elective share amount of the decedent's augmented estate 611
determined pursuant to division (A) of section 2106.02 of the 612
Revised Code. 613

(P) "Supplemental elective share amount" or "supplemental 614
elective share" means the supplemental elective share amount of 615
the decedent's augmented estate determined pursuant to division 616
(B) of section 2106.02 of the Revised Code. 617

(Q) "Right of election" means the right of a decedent's 618
surviving spouse to elect to receive an elective share amount 619
under section 2106.02 of the Revised Code. 620

(R) "Account with POD designation" means an account that 621
includes a designation of a beneficiary who will become the owner 622
of the account upon the death of the present owner of the account, 623
as shown by the words "pay on death" or "payable on death" or the 624
abbreviation "POD" after the name of the owner of the account. 625

(S) "Security registered in beneficiary form with TOD 626
designation" means a security that is registered under sections 627
1709.01 to 1709.11 of the Revised Code with a designation of a 628
beneficiary who will become the owner of the security upon the 629
death of the present owner of the security, as shown by the words 630
"transfer on death" or the abbreviation "TOD," after the name of 631
the registered owner of the security and before the name of the 632
beneficiary. 633

(T) "Certificate of title of a motor vehicle, watercraft, or 634
outboard motor with TOD designation" means a certificate of title 635
of a motor vehicle, watercraft, or outboard motor that, under 636
section 2131.13 of the Revised Code, designates a beneficiary or 637
beneficiaries who will become the owner or owners of the motor 638
vehicle, watercraft, or outboard motor upon the death of the 639
present owner of the motor vehicle, watercraft, or outboard motor 640
and in which the designation may be shown by the words 641

"transfer-on-death" or the abbreviation "TOD" after the name of 642
the owner of the motor vehicle, watercraft, or outboard motor and 643
before the name or names of the transfer-on-death beneficiary or 644
beneficiaries. 645

(U) "Transfer on death deed" means a deed conveying any 646
interest in real property that under section 5302.22 of the 647
Revised Code creates a present interest as sole owner or as a 648
tenant in common in the grantee and creates a transfer on death 649
interest in a designated beneficiary or beneficiaries and upon the 650
death of the grantee vests the interest of the decedent in the 651
beneficiary or beneficiaries. 652

Sec. 2106.02. (A)(1)(a) The surviving spouse of a decedent 653
who dies domiciled in this state has a right of election, subject 654
to the limitations and conditions specified in this chapter, to 655
take an elective share amount of the decedent's augmented estate 656
that is equal to fifty per cent of the amount resulting from the 657
following formula: 658

(i) Add the value of the augmented estate of the decedent 659
that is marital property plus the value of the augmented estate of 660
the decedent's surviving spouse that is marital property; 661

(ii) Subtract from the resulting sum under division 662
(A)(1)(a)(i) of this section the amount of the marital debts of 663
both the decedent and the decedent's surviving spouse or of either 664
of them. 665

(b) For purposes of division (A)(1)(a) of this section, 666
marital property shall be determined pursuant to division (A)(3) 667
of section 3105.171 of the Revised Code. 668

(2) For purposes of division (A)(1) of this section and 669
subject to division (A)(3) of this section, it is presumed that 670
all of the assets and debts in the decedent's augmented estate are 671

marital assets or marital debts of the decedent and the surviving spouse unless the assets or debts in the decedent's augmented estate are shown to be the separate property or separate debts of the decedent or the separate property or separate debts of the surviving spouse, as the case may be, immediately before the decedent's death. The determination of whether the assets and debts in the decedent's augmented estate are the separate property or separate debts of the decedent or the separate property or separate debts of the surviving spouse under this division shall be made pursuant to division (A)(6) of section 3105.171 of the Revised Code and shall be based upon a preponderance of the evidence introduced by the party maintaining that any portion of the decedent's augmented estate is the separate property or separate debts of the decedent or the separate property or separate debts of the surviving spouse, as the case may be.

(3) The assets in the decedent's augmented estate the total value of which equal the community spouse resource allowance as defined in section 1924 of the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 1396r-5(f)(2), and the assets in the decedent's augmented estate that are considered not to have been available to the surviving spouse who is the institutionalized spouse under section 1924(C)(4) of the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 1396r-5(c)(4), are conclusively presumed to be the separate property of the decedent for purposes of division (A) of this section.

(B) If the sum of the values or amounts described in section 2106.07 and divisions (A)(1) and (2) of section 2106.09 of the Revised Code and that part of the elective share amount payable from the decedent's probate estate and nonprobate transfers to others under divisions (B) and (C) of section 2106.09 of the Revised Code is less than fifty thousand dollars, the surviving spouse is entitled to a supplemental elective share amount of the

decedent's estate that is equal to fifty thousand dollars minus 704
the sum of the values and amounts described in that section and 705
those divisions. The supplemental elective share amount is payable 706
from the decedent's probate estate and from the recipients of the 707
decedent's nonprobate transfers to others in the order of priority 708
set forth in divisions (B) and (C) of section 2106.09 of the 709
Revised Code. 710

(C) If the right of election is exercised by or on behalf of 711
the surviving spouse, the surviving spouse's right to remain in 712
the mansion house under section 2106.24 of the Revised Code, if 713
any, is not charged against but is in addition to the elective 714
share and supplemental elective share amounts. 715

(D) The right, if any, of the surviving spouse of a decedent 716
who dies domiciled outside this state to take an elective share in 717
any property in this state is governed by the law of the 718
decedent's domicile at death. 719

Sec. 2106.03. Subject to section 2106.08 of the Revised Code, 720
the value of a decedent's augmented estate, to the extent provided 721
in sections 2106.04, 2106.05, 2106.06, and 2106.07 of the Revised 722
Code, is equal to the sum of the values of all real, personal, 723
movable, immovable, tangible, and intangible property, wherever 724
situated, that constitutes the decedent's net probate estate under 725
section 2106.04 of the Revised Code, the decedent's nonprobate 726
transfers to others under section 2106.05 of the Revised Code, the 727
decedent's nonprobate transfers to the surviving spouse under 728
section 2106.06 of the Revised Code, and the surviving spouse's 729
property and nonprobate transfers to others under section 2106.07 730
of the Revised Code. 731

Sec. 2106.04. The value of a decedent's augmented estate 732
includes the value of the decedent's probate estate minus funeral 733

and administration expenses, any right of the decedent's surviving spouse to remain in the mansion house under section 2106.24 of the Revised Code, and any enforceable claims against the decedent's estate. The value of a decedent's augmented estate is not reduced by the allowance for support set off to the decedent's surviving spouse under section 2106.23 of the Revised Code or by the value of other transfers to the decedent's surviving spouse under sections 2106.26 and 2106.27 of the Revised Code.

Sec. 2106.05. The value of the augmented estate includes the value of any of the following categories or types of the decedent's nonprobate transfers to others that are not included under section 2106.04 of the Revised Code, in the following amounts respectively for each of the following categories or types of transfer:

(A) Property that was owned or owned in substance by the decedent immediately before death and that passed outside probate at the decedent's death. Property included under this category consists of the following:

(1) Property over which the decedent alone held immediately before death a presently exercisable general power of appointment. The amount included under division (A)(1) of this section is the value of the property that is subject to the power and that passed at the decedent's death, by exercise, release, lapse, default, or otherwise, to or for the benefit of a person other than the decedent's estate or surviving spouse.

(2) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship. The amount included under division (A)(2) of this section is the value of the decedent's fractional interest that passed by right of survivorship at the decedent's death to a surviving joint tenant

other than the decedent's surviving spouse.

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(3) The decedent's ownership interest in property, accounts with POD designation, securities registered in beneficiary form with TOD designation, securities registered under a co-ownership designation with the right of survivorship, motor vehicles, watercraft, or outboard motors the certificate of title of which is with TOD designation, real property that is subject to a transfer on death beneficiary designation made under a transfer on death deed, annuities, Keogh plans, individual retirement accounts, pension and profit sharing plans, and other qualified plans or other contractual rights. The amount included under division (A)(3) of this section is the value of the decedent's ownership interest in the property, account, security, motor vehicle, watercraft, outboard motor, annuity, or plan or other contractual right that passed at the decedent's death to or for the benefit of a person other than the decedent's estate or surviving spouse.

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(4) The proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before the decedent's death or if and to the extent the decedent alone and immediately before the decedent's death held a presently exercisable general power of appointment over the policy or its proceeds. The amount included under division (A)(4) of this section is the value of the proceeds of the insurance that were payable at the decedent's death to or for the benefit of a person other than the decedent's estate or surviving spouse.

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(B) Property transferred in any of the following forms by the decedent during marriage:

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(1) An irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income

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from, the property, if and to the extent the decedent's right 795
terminated at or continued beyond the decedent's death. The amount 796
included under division (B)(1) of this section is the value of the 797
fraction of the property to which the decedent's right related and 798
that passed outside probate to or for the benefit of a person 799
other than the decedent's estate or surviving spouse. 800

(2) A transfer in which the decedent created a power over 801
income or property that was exercisable by the decedent alone or 802
in conjunction with another person or that was exercisable by a 803
nonadverse party, to or for the benefit of the decedent, the 804
creditors of the decedent, the decedent's estate, or the creditors 805
of the decedent's estate. The amount included under division 806
(B)(2) of this section is one of the following: 807

(a) With respect to a power over property, the value of the 808
property subject to the power that was exercisable at the 809
decedent's death to or for the benefit of a person other than the 810
decedent's surviving spouse or that passed at the decedent's 811
death, by exercise, release, lapse, default, or otherwise, to or 812
for the benefit of a person other than the decedent's estate or 813
surviving spouse; 814

(b) With respect to a power over income, the value of the 815
property that produces or produced the income and that was 816
exercisable at the decedent's death to or for the benefit of a 817
person other than the decedent's surviving spouse or that passed 818
at the decedent's death, by exercise, release, lapse, default, or 819
otherwise, to or for the benefit of a person other than the 820
decedent's estate or surviving spouse; 821

(c) With respect to a power over both income and property, 822
the greater of the amounts included in divisions (B)(2)(a) and (b) 823
of this section. 824

(C) The commuted value of the expectancy of dower to which 825

the decedent's surviving spouse is entitled under section 2103.02 826
of the Revised Code; 827

(D) Property that passed during the marriage of the decedent 828
and the decedent's surviving spouse and during the two-year period 829
immediately preceding the decedent's death as a result of a 830
transfer by the decedent, if the transfer was any of the 831
following: 832

(1) A transfer of property that passed as a result of the 833
termination of a right in, interest in, or power over property 834
that would have been included in the augmented estate under 835
division (A)(1), (2), or (3) or (B) of this section if the right, 836
interest, or power had not terminated until the decedent's death. 837
The amount included under division (D)(1) of this section is the 838
value of the property that would have been included in the 839
augmented estate under division (A)(1), (2), or (3) or (B) of this 840
section if the property were valued at the time the right, 841
interest, or power terminated and that passed upon termination to 842
or for the benefit of a person other than the decedent or the 843
decedent's estate, spouse at the time of the transfer, or 844
surviving spouse. As used in division (D)(1) of this section, 845
"termination" with respect to a right or interest in property, 846
occurs when the right or interest terminates by the terms of the 847
governing instrument or when the decedent transfers or 848
relinquishes the right or interest and, with respect to a power 849
over property, occurs when the power terminates by exercise, 850
release, lapse, default, or otherwise. However, with respect to a 851
power over property described in division (A)(1) of this section, 852
"termination" occurs only when the power terminates by exercise or 853
release. 854

(2) A transfer of or relating to an insurance policy on the 855
life of the decedent if the proceeds of the insurance would have 856
been included in the augmented estate under division (A)(4) of 857

this section had the transfer not occurred. The amount included
under division (D)(2) of this section is the value of the
insurance proceeds that were payable at the decedent's death to or
for the benefit of a person other than the decedent's estate or
surviving spouse.

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(3) A transfer of property that is not otherwise included in
the augmented estate and that is made to or for the benefit of a
person other than the decedent's surviving spouse. The amount
included under division (D)(3) of this section is the value of the
transferred property to the extent the aggregate transfers to any
one donee in either of the two years immediately preceding the
decedent's death exceeded eleven thousand dollars.

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Sec. 2106.06. Except for property that passes to the
surviving spouse in the form of federal benefits or payments under
the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as
amended, and except for property transferred to a qualified
charitable remainder trust that is a charitable remainder annuity
trust or a charitable remainder unitrust under section 664 of the
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 664,
as amended, the value of the augmented estate includes the value
of all property that passed outside probate at the decedent's
death from the decedent to the surviving spouse by reason of the
decedent's death, including, but not limited to, the following:

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(A) The decedent's fractional interest in property held as a
joint tenant with the right of survivorship that passed to the
surviving spouse as surviving joint tenant;

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(B) The decedent's ownership interest in property held as a
co-owner with the right of survivorship or in securities
registered under a co-ownership designation with the right of
survivorship that passed to the surviving spouse as surviving
co-owner;

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(C) The commuted value of the expectancy of dower to which the surviving spouse is entitled under section 2103.02 of the Revised Code; 889
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(D) All other property that would have been included in the augmented estate under division (A) or (B) of section 2106.05 of the Revised Code if the property had passed to or for the benefit of a person other than the decedent's surviving spouse, the decedent, or the decedent's creditors, estate, or estate creditors. 892
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Sec. 2106.07. (A) Except to the extent included in a decedent's augmented estate under section 2106.04 or 2106.06 of the Revised Code, the value of a decedent's augmented estate includes the value of any of the following: 898
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(1) Property that was owned by the decedent's surviving spouse at the decedent's death, including, but not limited to, all of the following: 902
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(a) The surviving spouse's fractional interest in property held in joint tenancy with the right of survivorship; 905
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(b) The surviving spouse's ownership interest in property held as a co-owner with the right of survivorship or in securities registered under a co-ownership designation with the right of survivorship; 907
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(c) Property that passed to the surviving spouse by reason of the decedent's death, but not including the surviving spouse's right to remain in the mansion house under section 2106.24 of the Revised Code, to receive federal benefits or payments under the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as amended, or to receive property transferred to a qualified charitable remainder trust that is a charitable remainder annuity trust or a charitable remainder unitrust under section 664 of the "Internal 911
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Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 664, as 919
amended. 920

(2) Property that would have been included in the surviving 921
spouse's nonprobate transfers to others, other than the spouse's 922
fractional and ownership interests included in the augmented 923
estate under division (A)(1)(a) or (b) of this section, if the 924
surviving spouse had been the decedent. 925

(B) Property that is included in a decedent's augmented 926
estate under this section is valued at the decedent's death, 927
taking into account the fact that the decedent predeceased the 928
decedent's surviving spouse, but, for purposes of division 929
(A)(1)(a) or (b) of this section, the values of the surviving 930
spouse's fractional and ownership interests are determined 931
immediately before the decedent's death if the decedent was then a 932
joint tenant or a co-owner of the property or securities. For 933
purposes of division (A)(2) of this section, proceeds of insurance 934
that would have been included in the surviving spouse's nonprobate 935
transfers to others under division (A)(4) of section 2106.05 of 936
the Revised Code are not valued as if the surviving spouse were 937
deceased. 938

Sec. 2106.08. (A)(1) The value of any property is excluded 939
from a decedent's nonprobate transfers to others to the extent the 940
decedent received adequate and full consideration in money or 941
money's worth for a transfer of the property or if the property 942
was transferred with the written joinder of, or the transfer was 943
consented to in writing by, the surviving spouse. 944

(2) The value of any property is excluded from a surviving 945
spouse's nonprobate transfers to others under section 2106.07 of 946
the Revised Code to the extent the surviving spouse received 947
adequate and full consideration in money or money's worth for a 948
transfer of the property or if the property was transferred with 949

the written joinder of, or the transfer was consented to in writing by, the decedent spouse.

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(B)(1) The value of property included in a decedent's augmented estate under section 2106.05, 2106.06, or 2106.07 of the Revised Code is reduced in each category specified in those sections by enforceable claims against the included property.

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(2) Subject to division (B)(4) of this section, the value of property included in a decedent's augmented estate under section 2106.05, 2106.06, or 2106.07 of the Revised Code includes the commuted value of any present or future interest and the commuted value of amounts payable under any trust, life insurance settlement option, annuity contract, public or private pension plan, disability compensation plan, death benefit or retirement plan, or any similar contract or plan, except federal benefits or payments under the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as amended, or property transferred to a qualified charitable remainder trust that is a charitable remainder annuity trust or a charitable remainder unitrust under section 664 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 664, as amended.

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(3) The commuted value of property under division (B)(2) of this section shall be determined by reference to valuation tables prescribed and published by the United States secretary of the treasury that use an interest rate determined pursuant to section 7520 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, for the month in which the valuation date occurs.

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(4) For purposes of divisions (B)(2) and (3) of this section, any life interest in property that would qualify for the qualified terminable interest property deduction allowed under division (B) of section 5731.15 of the Revised Code shall be considered to be

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not less than fifty per cent of the qualifying property. 981

(C) If the same property is subject to more than one 982
provision in sections 2106.05, 2106.06, and 2106.07 of the Revised 983
Code, the property is included in the augmented estate under the 984
provision that yields the greatest value and under only one 985
provision if the provisions all yield the same value. 986

Sec. 2106.09. (A) In a proceeding for an elective share, the 987
following are applied first to satisfy the elective share amount 988
of the decedent's surviving spouse and to reduce or eliminate any 989
contribution due from the decedent's probate estate and recipients 990
of the decedent's nonprobate transfers to others: 991

(1) The amounts included in the decedent's augmented estate 992
under section 2106.04 of the Revised Code, other than the right of 993
the decedent's surviving spouse to remain in the mansion house 994
under section 2106.24 of the Revised Code, that pass or have 995
passed to the decedent's surviving spouse by testate or intestate 996
succession, the amount of the allowance for support set off to the 997
decedent's surviving spouse under section 2106.23 of the Revised 998
Code, the commuted value of any expectancy of dower to which the 999
decedent's surviving spouse is entitled under section 2103.02 of 1000
the Revised Code, the value of an automobile, watercraft, or 1001
outboard motor transferred to the decedent's surviving spouse 1002
under section 2106.26 or 2106.27 of the Revised Code, and amounts 1003
included in the augmented estate under section 2106.06 of the 1004
Revised Code. 1005

(2) The commuted value of any life or term interest received 1006
by the surviving spouse from the decedent in property that is a 1007
part of the decedent's augmented estate and that could qualify for 1008
a federal estate tax marital deduction in the decedent's estate. 1009

(3) The amounts included in the decedent's augmented estate 1010

that would have passed to the surviving spouse but were 1011
disclaimed. 1012

(4) The amounts included in the decedent's augmented estate 1013
under section 2106.07 of the Revised Code. 1014

(5) All separate property of the decedent transferred to the 1015
surviving spouse by reason of the death of the decedent. 1016

(B) If, after the application of division (A) of this 1017
section, the elective share amount of a decedent's surviving 1018
spouse is not fully satisfied or the surviving spouse is entitled 1019
to a supplemental elective share amount, the amounts included in 1020
the decedent's probate estate and in the decedent's nonprobate 1021
transfers to others, other than amounts included under division 1022
(D)(1) or (3) of section 2106.05 of the Revised Code, are applied 1023
first to satisfy the unsatisfied balance of the elective share 1024
amount or the supplemental elective share amount. The decedent's 1025
probate estate and that portion of the decedent's nonprobate 1026
transfers to others are to be applied so that liability for the 1027
unsatisfied balance of the elective share amount or for the 1028
supplemental elective share amount is equitably apportioned among 1029
the recipients of the decedent's probate estate and of that 1030
portion of the decedent's nonprobate transfers to others in 1031
proportion to the value of their interests. 1032

(C) If, after the application of divisions (A) and (B) of 1033
this section, the elective share amount or supplemental elective 1034
share amount of the decedent's surviving spouse is not fully 1035
satisfied, the remaining portion of the decedent's nonprobate 1036
transfers to others is to be applied so that liability for the 1037
unsatisfied balance of the elective share amount or supplemental 1038
elective share amount is equitably apportioned among the 1039
recipients of the remaining portion of the decedent's nonprobate 1040
transfers to others in proportion to the value of their interests. 1041

Sec. 2106.10. (A) Only original recipients of a decedent's 1042
nonprobate transfers to others, and the donees of the recipients 1043
of the decedent's nonprobate transfers to others, to the extent 1044
the donees have the property or its proceeds, are liable to make a 1045
proportional contribution toward satisfaction of the decedent's 1046
surviving spouse's elective share amount or supplemental elective 1047
share amount. A person who is liable under this division to make a 1048
proportional contribution may choose to give up the proportional 1049
part of the decedent's nonprobate transfer to the person or to pay 1050
the value of the amount of the proportional contribution for which 1051
the person is liable. 1052

(B) If a section or a provision of a section of this chapter 1053
is preempted by federal law with respect to a payment, an item of 1054
property, or any other benefit included in the decedent's 1055
nonprobate transfers to others, a person who, not for value, 1056
receives the payment, item of property, or other benefit is 1057
obligated to return the payment, item of property, or benefit, or 1058
is personally liable for the amount of the payment or the value of 1059
that item of property or benefit, as provided in section 2106.09 1060
of the Revised Code, to the person who would have been entitled to 1061
it if that section or provision of that section had not been 1062
preempted by federal law. 1063

(C) If a surviving spouse is unable to collect the full 1064
amount due under this section because of uncollectibility, 1065
inability to obtain appropriate jurisdiction, or another reason, 1066
the uncollected amounts shall not be reapportioned, and the 1067
surviving spouse shall bear the burden of the uncollected amounts. 1068

Sec. 2106.11. (A) The surviving spouse of a decedent may make 1069
an election under section 2106.02 of the Revised Code by filing a 1070
petition for the elective share in the probate court of the county 1071

in which the decedent was domiciled at the time of the decedent's 1072
death. The surviving spouse shall file the petition within six 1073
months after the date of the decedent's death. Any fiduciary of 1074
the decedent's estate or any other person interested in the 1075
decedent's estate may request that the petition for the elective 1076
share be filed within a period of time that is shorter than that 1077
period of time by filing a petition in the probate court 1078
requesting that the surviving spouse be required to file the 1079
petition for the elective share within thirty days of receipt of a 1080
citation from the probate court or be barred from any elective 1081
share. Upon the filing of the request by any fiduciary or 1082
interested person, the probate court shall issue a citation by 1083
certified mail, return receipt requested, to the surviving spouse 1084
that requires the surviving spouse, within thirty days of receipt 1085
of the citation, to file a petition for the elective share or 1086
request the probate court to grant an extension of the time within 1087
which the petition for an elective share must be filed. If the 1088
surviving spouse, within that thirty-day period, fails to file a 1089
petition for the elective share or to request the probate court to 1090
grant an extension of the time within which the petition for an 1091
elective share must be filed, the surviving spouse is barred from 1092
filing a petition for an elective share under section 2106.02 of 1093
the Revised Code and from otherwise making any further election 1094
under that section. If the surviving spouse files a petition for 1095
the elective share under this division, the surviving spouse shall 1096
give notice of the time and place set for a hearing on the 1097
petition for the elective share to all of the personal 1098
representatives of the decedent, if any, to persons interested in 1099
the decedent's estate, and to the distributees and recipients of 1100
portions of the decedent's augmented estate whose interests may be 1101
adversely affected by the taking of the elective share. 1102

(B) Within the earlier of six months after the decedent's 1103

death or thirty days after the receipt of a citation to elect that 1104
is issued by the probate court under division (A) of this section, 1105
the surviving spouse may petition the court for an extension of 1106
the time within which to make an election under section 2106.02 of 1107
the Revised Code. If, within the earlier of six months after the 1108
decedent's death or thirty days after receipt of a citation to 1109
elect that is issued by the probate court under division (A) of 1110
this section, the spouse gives notice of the petition for an 1111
extension that is filed under this division to all persons 1112
interested in the decedent's nonprobate transfers to others, the 1113
probate court for good cause shown by the surviving spouse may 1114
extend the time for making an election under section 2106.02 of 1115
the Revised Code. If the court grants the spouse's petition for an 1116
extension of the time within which to make an election under 1117
section 2106.02 of the Revised Code and if the surviving spouse, 1118
within the period of time allowed by the extension, makes an 1119
election under that section by filing a petition for an elective 1120
share in the probate court, the petition is considered as filed in 1121
a timely manner. 1122

(C) The surviving spouse may withdraw the surviving spouse's 1123
petition for an elective share at any time before entry of a final 1124
determination on the elective share by the court. 1125

(D) After notice as provided in division (A) of this section 1126
and after a hearing, the court shall determine the elective share 1127
and supplemental elective share amounts of the decedent's 1128
surviving spouse and shall order the payment of those amounts from 1129
the assets of the decedent's augmented estate or by contribution, 1130
as appropriate, under sections 2106.09 and 2106.10 of the Revised 1131
Code. If it appears that a fund or property included in the 1132
decedent's augmented estate has not come into the possession of 1133
the decedent's personal representative or has been distributed by 1134
the personal representative, the court nevertheless shall 1135

determine the liability of any person who has an interest in the fund or property or who has possession of the fund or property, whether as trustee or otherwise. The proceeding to determine that liability may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than the person would have been subject to contribution under sections 2106.09 and 2106.10 of the Revised Code if relief had been secured against all persons subject to contribution.

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(E) An order or judgment of the court under division (D) of this section may be enforced, as necessary, in an action for contribution or payment in other courts of this state, other states, or the United States.

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Sec. 2106.12. (A) Only a surviving spouse of a decedent who is living when the petition for the elective share is filed in the probate court under division (A) or (B) of section 2106.11 of the Revised Code may exercise the right of election provided under section 2106.02 of the Revised Code. If the surviving spouse does not personally exercise the right of election, the surviving spouse's conservator, guardian, or agent under the authority of a power of attorney may exercise the right of election on behalf of the surviving spouse. If, because of a legal disability, a surviving spouse is unable to make an election under section 2106.02 of the Revised Code and if the surviving spouse does not have a conservator, guardian, or agent, the probate court may appoint a guardian ad litem for the surviving spouse to consider all the facts and circumstances related to the decedent's estate and the surviving spouse's right of election and recommend to the court whether or not to petition on behalf of the surviving spouse for the elective share. After considering the recommendation of the guardian ad litem or on its own initiative, the court may

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order the filing on behalf of the surviving spouse of the petition 1167
for the elective share. The court shall not issue an order to file 1168
a petition for the elective share until after the court considers 1169
other available resources and the age, probable life expectancy, 1170
physical and mental condition, and present and reasonably 1171
anticipated future needs of the surviving spouse and determines 1172
that the election is necessary to provide adequate support for the 1173
surviving spouse during the surviving spouse's life expectancy. 1174

(B) If the right of election is exercised on behalf of a 1175
decedent's surviving spouse who is an incapacitated person, the 1176
court shall set aside that portion of the elective share and 1177
supplemental elective share amounts due from the decedent's 1178
probate estate and from recipients of the decedent's nonprobate 1179
transfers to others under divisions (B) and (C) of section 2106.09 1180
of the Revised Code and shall appoint a trustee to administer that 1181
property for the support of the surviving spouse. For purposes of 1182
this division, an election on behalf of a surviving spouse by an 1183
agent under a durable power of attorney is presumed to be on 1184
behalf of a surviving spouse who is an incapacitated person. The 1185
trustee shall administer the trust in accordance with the 1186
following terms and any additional terms that the court determines 1187
appropriate: 1188

(1) The trustee may make expenditures of income and principal 1189
in the manner, at the time, and to the extent that the trustee 1190
determines suitable and proper for the surviving spouse's support, 1191
without court order, but with regard to other support, income, and 1192
property of the surviving spouse and benefits of medical or other 1193
forms of assistance from a state or federal government or 1194
governmental agency for which the surviving spouse qualifies on 1195
the basis of need. 1196

(2) During the surviving spouse's incapacity, the surviving 1197

spouse or a person acting on behalf of the surviving spouse has 1198
the power to terminate the trust. If the surviving spouse regains 1199
capacity, the surviving spouse acquires the power to terminate the 1200
trust and acquire full ownership of the trust property free of 1201
trust by delivering to the trustee a writing signed by the 1202
surviving spouse declaring the termination of the trust. 1203

(3) Upon the death of the surviving spouse, the trustee shall 1204
transfer the unexpended trust property to the estate of the 1205
surviving spouse. 1206

(C) If the right of election is exercised on behalf of a 1207
decedent's surviving spouse who is an incapacitated person and if 1208
there is an existing trust, with or without court supervision, of 1209
which the incapacitated surviving spouse is the beneficiary and 1210
that qualifies or could be made to qualify as a marital deduction 1211
under section 2056 of the "Internal Revenue Code of 1986," 100 1212
Stat. 2085, 26 U.S.C.A. 2056, as amended, or an existing 1213
guardianship or conservatorship for the lifetime benefit of the 1214
incapacitated surviving spouse, the court, in lieu of appointing a 1215
separate trustee under division (B) of this section, may order 1216
that the portion of the elective share and supplemental elective 1217
share amounts that is set aside under division (B) of this section 1218
be added to the existing trust, guardianship, or conservatorship. 1219

Sec. 2106.13. (A) The right of election of a surviving spouse 1220
under sections 2106.02 and 2106.11 of the Revised Code, and the 1221
rights of the surviving spouse to an allowance for support under 1222
section 2106.23 of the Revised Code, to remain in the mansion 1223
house under section 2106.24 of the Revised Code, and to the 1224
transfer to the spouse of the title to one automobile, one 1225
watercraft, or one outboard motor under section 2106.26 or 2106.27 1226
of the Revised Code may be waived, wholly or partially, before or 1227
after marriage, by a written contract, agreement, or waiver signed 1228

by the surviving spouse. 1229

(B) A waiver by a surviving spouse under division (A) of this 1230
section is not enforceable if the surviving spouse proves any of 1231
the following: 1232

(1) The surviving spouse did not execute the waiver 1233
voluntarily. 1234

(2) The waiver was unconscionable when it was executed, and, 1235
before execution of the waiver, any of the following occurs: 1236

(a) The surviving spouse did not have full knowledge or 1237
understanding of the waiver or was not provided a fair and 1238
reasonable disclosure of the property of the decedent. 1239

(b) The surviving spouse did not enter into the waiver or 1240
agreement freely and without fraud, duress, coercion, or 1241
overreaching. 1242

(c) The terms of the waiver promote or encourage divorce or 1243
profiteering by divorce. 1244

(C) An issue of unconscionability of a waiver is for decision 1245
by the probate court as a matter of law. 1246

(D) Unless the waiver provides otherwise, a waiver of "all 1247
rights" or equivalent language in the property or estate of a 1248
present or prospective spouse or a complete property settlement 1249
entered into after or in anticipation of legal separation or 1250
divorce is a waiver of all the rights to the elective share under 1251
section 2106.02 of the Revised Code, to remain in the mansion 1252
house under section 2106.24 of the Revised Code, to the title to 1253
an automobile and to one watercraft and one outboard motor under 1254
sections 2106.26 and 2106.27 of the Revised Code, and to an 1255
allowance for support under section 2106.23 of the Revised Code, a 1256
waiver by each spouse of all rights in the property of the other, 1257
and a renunciation by each spouse of all benefits that would 1258

otherwise pass to the spouse from the other by intestate 1259
succession or by virtue of a will executed before the waiver or 1260
property settlement. 1261

Sec. 2106.14. (A) Notwithstanding that under section 2106.05 1262
of the Revised Code a payment, item of property, or other benefit 1263
is included in the decedent's nonprobate transfers to others, a 1264
payor or other third party is not liable for having made a payment 1265
or transferred an item of property or other benefit to a 1266
beneficiary designated in a governing instrument, or for having 1267
taken any other action in good faith reliance on the validity of a 1268
governing instrument, upon request and satisfactory proof of the 1269
decedent's death, before the payor or other third party received 1270
written notice from the surviving spouse or the surviving spouse's 1271
representative of an intention to file a petition for the elective 1272
share or that a petition for the elective share has been filed. A 1273
payor or other third party is liable for payments made or other 1274
actions taken after the payor or other third party receives 1275
written notice of an intention by the surviving spouse or the 1276
surviving spouse's representative to file a petition for the 1277
elective share or that a petition for the elective share has been 1278
filed. 1279

(B) The surviving spouse or the surviving spouse's 1280
representative shall mail a written notice of an intention to file 1281
a petition for the elective share or that a petition for the 1282
elective share has been filed to the payor's or other third 1283
party's main office or home by certified mail, return receipt 1284
requested, or shall serve the notice upon the payor or other third 1285
party in the same manner as a summons in a civil action. Upon 1286
receipt of the written notice of intention to file a petition for 1287
the elective share or that a petition for the elective share has 1288
been filed, a payor or other third party may pay any amount owed 1289

or may transfer or deposit any item of property held by it to or 1290
with the probate court in which the probate proceedings related to 1291
the decedent's estate have been commenced or, if no probate 1292
proceedings related to the decedent's estate have been commenced, 1293
to or with the probate court of the county of the decedent's 1294
residence. The probate court shall hold the funds or item of 1295
property, and, upon its determination under division (D) of 1296
section 2106.11 of the Revised Code, shall order disbursement in 1297
accordance with the determination. If no petition for an elective 1298
share is filed in the probate court within the time specified 1299
under division (A) or (B) of section 2106.11 of the Revised Code 1300
or, if a petition for an elective share has been filed, the demand 1301
for an elective share is withdrawn under division (C) of section 1302
2106.11 of the Revised Code, the court shall order disbursement to 1303
the designated beneficiary. Payments or transfers to the court or 1304
deposits made into court discharge the payor or other third party 1305
from all claims for amounts so paid or the value of property so 1306
transferred or deposited. 1307

(C) Upon petition to the probate court by the beneficiary 1308
designated in a governing instrument, the court may order that all 1309
or part of the property be paid to the beneficiary in an amount 1310
and subject to conditions consistent with this chapter. 1311

Sec. ~~2106.10~~ 2106.21. (A) A surviving spouse may elect to 1312
receive, as part of the surviving spouse's share of an intestate 1313
estate under section 2105.06 of the Revised Code and the allowance 1314
for support under section ~~2106.13~~ 2106.23 of the Revised Code, the 1315
entire interest of the decedent spouse in the mansion house. The 1316
interest of the decedent spouse in the mansion house shall be 1317
valued at the appraised value with the deduction of that portion 1318
of all liens on the mansion house existing at the time of death 1319
and attributable to the decedent's interest in the mansion house. 1320

(B) The election pursuant to division (A) of this section 1321
shall be made at or before the time a final account is rendered. 1322

(C) If the spouse makes an election pursuant to division (A) 1323
of this section, the administrator or executor shall file, unless 1324
the election is one made under division (D) of this section, an 1325
application for a certificate of transfer as provided for in 1326
section 2113.61 of the Revised Code. The application also shall 1327
contain an inventory of the property and the allowance for support 1328
that the spouse is entitled to receive under sections 2105.06 and 1329
~~2106.13~~ 2106.23 of the Revised Code. If the value of the property 1330
and the allowance for support that the spouse is entitled to 1331
receive is equal to or greater than the value of the decedent's 1332
interest in the mansion house, the court shall issue the 1333
certificate of transfer. 1334

(D) The surviving spouse may make an election pursuant to 1335
division (A) of this section in an estate relieved from 1336
administration under section 2113.03 of the Revised Code or in an 1337
estate that is subject to an order granting a summary release from 1338
administration under section 2113.031 of the Revised Code. The 1339
election shall be made at the time of or prior to the entry of the 1340
order relieving the estate from administration or the order 1341
granting a summary release from administration. Either the 1342
surviving spouse or the applicant for the order shall file the 1343
application for the certificate of transfer under division (C) of 1344
this section. 1345

(E) If the surviving spouse dies prior to making an election 1346
pursuant to division (A) of this section, the surviving spouse 1347
shall be conclusively presumed not to have made an election 1348
pursuant to that division. After the surviving spouse's death, no 1349
other person is authorized to make an election pursuant to that 1350
division on behalf of the estate of the surviving spouse. 1351

(F) As used in this section, the mansion house includes the 1352
decedent's title in the parcel of land on which the house is 1353
situated and, at the option of the surviving spouse, the 1354
decedent's title in the household goods contained within the house 1355
and the lots or farmland adjacent to the house and used in 1356
conjunction with it as the home of the decedent. 1357

Sec. ~~2106.11~~ 2106.22. Subject to the right of the surviving 1358
spouse to elect to receive the decedent's interest in the mansion 1359
house pursuant to section ~~2106.10~~ 2106.21 of the Revised Code, the 1360
specific monetary share payable to a surviving spouse under 1361
division (B), (C), or (D) of section 2105.06 of the Revised Code 1362
shall be paid out of the tangible and intangible personal property 1363
in the intestate estate to the extent that the personal property 1364
is available for distribution. The personal property distributed 1365
to the surviving spouse, other than cash, shall be valued at the 1366
appraised value. 1367

Before tangible and intangible personal property is 1368
transferred to the surviving spouse in payment or part payment of 1369
the specific monetary share, the administrator or executor shall 1370
file an application that includes an inventory of the personal 1371
property intended to be distributed in kind to the surviving 1372
spouse, together with a statement of the appraised value of each 1373
item of personal property included. The court shall examine the 1374
application and make a finding of the amount of personal property 1375
to be distributed to the surviving spouse, and shall order that 1376
the personal property be distributed to the surviving spouse. The 1377
court concurrently shall make a finding of the amount of money 1378
that remains due and payable to the surviving spouse in 1379
satisfaction of the specific monetary share to which the surviving 1380
spouse is entitled under division (B), (C), or (D) of section 1381
2105.06 of the Revised Code. Any amount that remains due and 1382

payable shall be a charge on the title to any real property in the
estate but the charge does not bear interest. This charge may be
conveyed or released in the same manner as any other interest in
real estate and may be enforced by foreclosure or any other
appropriate remedy.

Sec. ~~2106.13~~ 2106.23. (A) If a person dies leaving a
surviving spouse and no minor children, leaving a surviving spouse
and minor children, or leaving minor children and no surviving
spouse, the surviving spouse, minor children, or both shall be
entitled to receive, subject to division (B) of this section, in
money or property the sum of forty thousand dollars as an
allowance for support. If the surviving spouse selected two
automobiles under section ~~2106.18~~ 2106.26 of the Revised Code, the
allowance for support prescribed by this section shall be reduced
by the value of the automobile having the lower value of the two
automobiles so selected. The money or property set off as an
allowance for support shall be considered estate assets.

(B) The probate court shall order the distribution of the
allowance for support described in division (A) of this section as
follows:

(1) If the person died leaving a surviving spouse and no
minor children, one hundred per cent to the surviving spouse;

(2) If the person died leaving a surviving spouse and minor
children, and if all of the minor children are the children of the
surviving spouse, one hundred per cent to the surviving spouse;

(3) If the person died leaving a surviving spouse and minor
children, and if not all of the minor children are children of the
surviving spouse, in equitable shares, as fixed by the probate
court in accordance with this division, to the surviving spouse
and the minor children who are not the children of the surviving

spouse. In determining equitable shares under this division, the probate court shall do all of the following:

(a) Consider the respective needs of the surviving spouse, the minor children who are children of the surviving spouse, and the minor children who are not children of the surviving spouse;

(b) Allocate to the surviving spouse, the share that is equitable in light of the needs of the surviving spouse and the minor children who are children of the surviving spouse;

(c) Allocate to the minor children who are not children of the surviving spouse, the share that is equitable in light of the needs of those minor children.

(4) If the person died leaving minor children and no surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the minor children. In determining equitable shares under this division, the probate court shall consider the respective needs of the minor children and allocate to each minor child the share that is equitable in light of the child's needs.

(C) If the surviving spouse selected two automobiles under section ~~2106.18~~ 2106.26 of the Revised Code, the probate court, in considering the respective needs of the surviving spouse and the minor children when allocating an allowance for support under division (B)(3) of this section, shall consider the benefit derived by the surviving spouse from the transfer of the automobile having the lower value of the two automobiles so selected.

(D) If, pursuant to this section, the probate court must allocate the allowance for support, the administrator or executor, within five months of the initial appointment of an administrator or executor, shall file with the probate court an application to allocate the allowance for support.

(E) The administrator or executor shall pay the allowance for support unless a competent adult or a guardian with the consent of the court having jurisdiction over the guardianship waives the allowance for support to which the adult or the ward represented by the guardian is entitled.

(F) For the purposes of this section, the value of an automobile that a surviving spouse selects pursuant to section ~~2106.18~~ 2106.26 of the Revised Code is the value that the surviving spouse specifies for the automobile in the affidavit executed pursuant to division (B) of section 4505.10 of the Revised Code.

Sec. ~~2106.15~~ 2106.24. A surviving spouse may remain in the mansion house free of charge for one year, except that such real property may be sold within that time for the payment of debts of the decedent. If the real property is so sold, the surviving spouse shall be compensated from the estate to the extent of the fair rental value for the unexpired term, ~~such and the~~ compensation ~~to have~~ has the same priority in payment of debts of ~~estates~~ the estate as the allowance for support made to the surviving spouse, minor children, or surviving spouse and minor children of the decedent under section ~~2106.13~~ 2106.23 of the Revised Code.

Sec. ~~2106.16~~ 2106.25. A surviving spouse, even though acting as executor or administrator, may purchase the following property, if left by the decedent, and if not specifically devised or bequeathed:

(A) The decedent's interest in the mansion house, including the decedent's title in the parcel of land on which the mansion house is situated and lots or farm land adjacent to the mansion house and used in conjunction with it as the home of the decedent,

and the decedent's title in the household goods contained in the mansion house, at the appraised value as fixed by the appraisers;

(B) Except for ~~any~~ an automobile that passes to the surviving spouse of the decedent under division (A) of section ~~2106.18~~ 2106.26 of the Revised Code, any other real or personal property of the decedent not exceeding, with the decedent's interest in the mansion house and the decedent's title in the land used in conjunction with it, and the decedent's title in the household goods the spouse elects to purchase, one-third of the gross appraised value of the estate, at the appraised value as fixed by the appraisers.

A spouse desiring to exercise this right of purchase with respect to personal property shall file in the probate court an application setting forth an accurate description of the personal property and the election of the spouse to purchase it at the appraised value. No notice is required for the court to hear the application insofar as it pertains to household goods contained in the mansion house. If the application includes other personal property, the court shall cause a notice of the time and place of the hearing of the application with respect to the other personal property to be given to the executor or administrator, the heirs or beneficiaries interested in the estate, and to any other interested persons as the court determines.

A spouse desiring to exercise this right of purchase with respect to an interest in real property shall file in the court a petition containing an accurate description of the real property and naming as defendants the executor or administrator, the persons to whom the real property passes by inheritance or residuary devise, and all mortgagees and other lienholders whose claims affect the real property or any part of it. Spouses of defendants need not be made defendants. The petition shall set forth the election of the surviving spouse to purchase the

interest in real property at the appraised value and shall contain 1506
a prayer accordingly. A summons upon that petition shall be issued 1507
and served on the defendants in the same manner as provided for 1508
service of summons in actions to sell real property to pay debts. 1509

No hearing on the application or petition shall be held until 1510
the inventory is approved. On the hearing of the application or 1511
petition, ~~the finding of~~ the court shall be find in favor of the 1512
surviving spouse, unless it appears that the appraisement was made 1513
as a result of collusion or fraud or that it is so manifestly 1514
inadequate that a sale at that price would unconscionably 1515
prejudice the rights of the parties in interest or creditors. The 1516
action of the court shall not be held to prejudice the rights of 1517
lienholders. 1518

Upon a finding in favor of the surviving spouse, the court 1519
shall make an entry fixing the terms of payment to the executor or 1520
administrator for the property, having regard for the rights of 1521
creditors of the estate, and ordering the executor or 1522
administrator, or a commissioner who may be appointed and 1523
authorized for the purpose, to transfer and convey the property to 1524
the spouse upon compliance with the terms fixed by the court. If 1525
the court, having regard for the amount of property to be 1526
purchased, its appraised value, and the distribution to be made of 1527
the proceeds arising from the sale, finds that the original bond 1528
given by the executor or administrator is sufficient, the court 1529
may dispense with the giving of additional bonds. If the court 1530
finds that the original bond is insufficient, as a condition ~~to~~ 1531
for the transfer and conveyance, the court shall require the 1532
executor or administrator to execute an additional bond in an 1533
amount ~~as~~ that the court may fix, with proper surety, conditioned 1534
and payable as provided in section 2127.27 of the Revised Code. 1535
This section does not prevent the court from ordering the transfer 1536
and conveyance without bond in cases ~~where~~ in which the will of a 1537

testator provides that the executor need not give bond. The 1538
executor or administrator, or a commissioner, then shall execute 1539
and deliver to the surviving spouse a proper bill of sale or deed, 1540
as the case may be, for the property, and shall make a return to 1541
the court. 1542

The death of the surviving spouse prior to the filing of the 1543
court's entry fixing the terms of payment for property elected to 1544
be purchased shall nullify the election. The real or personal 1545
property then shall be free of the right granted in this section. 1546

The application or petition provided for in this section 1547
shall not be filed prior to filing the inventory required by 1548
section 2115.02 of the Revised Code or later than one month after 1549
the approval of that inventory. Failure to file an application or 1550
petition within that time nullifies the election with respect to 1551
the property required to be included, and the real or personal 1552
property then shall be free of the right granted in this section. 1553

Sec. ~~2106.18~~ 2106.26. (A) Upon the death of a married 1554
resident who owned at least one automobile at the time of death, 1555
the interest of the deceased spouse in up to two automobiles that 1556
are not transferred to the surviving spouse due to joint ownership 1557
with right of survivorship established under section 2131.12 of 1558
the Revised Code, that are not transferred to a transfer-on-death 1559
beneficiary or beneficiaries designated under section 2131.13 of 1560
the Revised Code, and that are not otherwise specifically disposed 1561
of by testamentary disposition may be selected by the surviving 1562
spouse. This interest shall immediately pass to the surviving 1563
spouse upon transfer of the title or titles in accordance with 1564
section 4505.10 of the Revised Code. The sum total of the values 1565
of the automobiles selected by a surviving spouse under this 1566
division, as specified in the affidavit that the surviving spouse 1567
executes pursuant to division (B) of section 4505.10 of the 1568

Revised Code, shall not exceed forty thousand dollars. Each 1569
automobile that passes to a surviving spouse under this division 1570
shall not be considered an estate asset and shall not be included 1571
in the estate inventory. 1572

(B) The executor or administrator, with the approval of the 1573
probate court, may transfer title to an automobile owned by the 1574
decedent to any of the following: 1575

(1) The surviving spouse, when the automobile is purchased by 1576
the surviving spouse pursuant to section ~~2106.16~~ 2106.25 of the 1577
Revised Code; 1578

(2) A distributee; 1579

(3) A purchaser. 1580

(C) The executor or administrator may transfer title to an 1581
automobile owned by the decedent without the approval of the 1582
probate court to any of the following: 1583

(1) A legatee entitled to the automobile under the terms of 1584
the will; 1585

(2) A distributee if the distribution of the automobile is 1586
made without court order pursuant to section 2113.55 of the 1587
Revised Code; 1588

(3) A purchaser if the sale of the automobile is made 1589
pursuant to section 2113.39 of the Revised Code. 1590

(D) As used in division (A) of this section, "automobile" 1591
includes a truck if the truck was used as a method of conveyance 1592
by the deceased spouse or the deceased spouse's family when the 1593
deceased spouse was alive. 1594

Sec. ~~2106.19~~ 2106.27. (A) Upon the death of a married 1595
resident who owned at least one watercraft, one outboard motor, or 1596
one of each at the time of death, the interest of the deceased 1597

spouse in one watercraft, one outboard motor, or one of each that 1598
is not otherwise specifically disposed of by testamentary 1599
disposition and that is selected by the surviving spouse 1600
immediately shall pass to the surviving spouse upon receipt by the 1601
clerk of the court of common pleas of both of the following: 1602

(1) The title executed by the surviving spouse; 1603

(2) An affidavit sworn by the surviving spouse stating the 1604
date of the decedent's death, a description of the watercraft, 1605
outboard motor, or both, its or their approximate value, and that 1606
the watercraft, outboard motor, or both are not disposed of by 1607
testamentary disposition. 1608

The watercraft, outboard motor, or both shall not be 1609
considered an estate asset and shall not be included and stated in 1610
the estate inventory. 1611

Transfer of a decedent's interest under this division does 1612
not affect the existence of any lien against a watercraft or 1613
outboard motor so transferred. 1614

(B) Except for a watercraft, outboard motor, or both 1615
transferred as provided in division (A) of this section, the 1616
executor or administrator may transfer title to a watercraft or 1617
outboard motor in the manner provided for transfer of an 1618
automobile under divisions (B) and (C) of section ~~2106.18~~ 2106.26 1619
of the Revised Code. 1620

Sec. ~~2106.20~~ 2106.31. A surviving spouse is entitled to a 1621
reimbursement from the estate of the deceased spouse for funeral 1622
expenses, if paid by the surviving spouse, to the extent that the 1623
rights of other creditors of the estate will not be prejudiced by 1624
the reimbursement. 1625

Sec. ~~2106.22~~ 2106.32. Any antenuptial ~~or~~ agreement, 1626

separation agreement, or waiver pursuant to section 2106.13 of the 1627
Revised Code to which a decedent was a party is valid unless an 1628
action to set it aside is commenced within ~~four~~ six months after 1629
the ~~appointment date of the executor or administrator of the~~ 1630
~~estate~~ death of the decedent, ~~or unless, within the four month~~ 1631
~~period, the validity of the agreement otherwise is attacked.~~ 1632

Sec. ~~2106.24~~ 2106.36. In addition to the rights provided in 1633
this chapter, a surviving spouse of a decedent who died testate or 1634
intestate is entitled to any other rights prescribed in other 1635
chapters of the Revised Code, including, but not limited to, any 1636
dower rights under Chapters 2103. and 5305. of the Revised Code. 1637

Sec. ~~2106.25~~ 2106.37. Unless otherwise specified by a 1638
provision of the Revised Code or this section, a surviving spouse 1639
shall exercise all rights under ~~Chapter 2106.~~ sections 2106.21 to 1640
2106.27 of the Revised Code within five months of the initial 1641
appointment of an executor or administrator of the estate. It is 1642
conclusively presumed that a surviving spouse has waived any right 1643
not exercised within that five-month period or within any longer 1644
period of time allowed by the court pursuant to this section. Upon 1645
the filing of a motion to extend the time for exercising a right 1646
under ~~Chapter 2106.~~ sections 2106.21 to 2106.27 of the Revised 1647
Code and for good cause shown, the court may allow further time 1648
for exercising the right that is the subject of the motion. 1649

Sec. 2107.63. A testator may by will devise, bequeath, or 1650
appoint real or personal property or any interest in real or 1651
personal property to a trustee of a trust that is evidenced by a 1652
written instrument signed by the testator or any other settlor 1653
either before or on the same date of the execution of the will of 1654
the testator, that is identified in the will, and that has been 1655
signed, or is signed at any time after the execution of the 1656

testator's will, by the trustee or trustees identified in the will 1657
or their successors or by any other person lawfully serving, by 1658
court appointment or otherwise, as a trustee. 1659

The property or interest so devised, bequeathed, or appointed 1660
to the trustee shall become a part of the trust estate, shall be 1661
subject to the jurisdiction of the court having jurisdiction of 1662
the trust, and shall be administered in accordance with the terms 1663
and provisions of the instrument creating the trust, including, 1664
unless the will specifically provides otherwise, any amendments or 1665
modifications of the trust made in writing before, concurrently 1666
with, or after the making of the will and prior to the death of 1667
the testator. The termination of the trust, or its entire 1668
revocation prior to the testator's death, shall invalidate the 1669
devise, bequest, or appointment to the trustee. 1670

This section shall not affect any of the rights accorded to a 1671
surviving spouse under section ~~2106.01~~ 2106.02 of the Revised 1672
Code. This section applies, ~~and shall be construed as applying,~~ to 1673
the wills of decedents who die on or after the effective date of 1674
this amendment, regardless of the date of the execution of their 1675
wills. 1676

Sec. 2109.301. (A) An administrator or executor shall render 1677
an account at any time other than a time otherwise mentioned in 1678
this section upon an order of the probate court issued for good 1679
cause shown either at its own instance or upon the motion of any 1680
person interested in the estate. Except as otherwise provided in 1681
division (B)(2) of this section, an administrator or executor 1682
shall render a final account within thirty days after completing 1683
the administration of the estate or within any other period of 1684
time that the court may order. 1685

Every account shall include an itemized statement of all 1686

receipts of the administrator or executor during the accounting 1687
period and of all disbursements and distributions made by the 1688
executor or administrator during the accounting period. In 1689
addition, the account shall include an itemized statement of all 1690
funds, assets, and investments of the estate known to or in the 1691
possession of the administrator or executor at the end of the 1692
accounting period and shall show any changes in investments since 1693
the last previous account. 1694

Every account shall be upon the signature of the 1695
administrator or executor. When two or more administrators or 1696
executors render an account, the court may allow the account upon 1697
the signature of one of them. The court may examine the 1698
administrator or executor under oath concerning the account. 1699

When an administrator or executor is authorized by law or by 1700
the instrument governing distribution to distribute the assets of 1701
the estate, in whole or in part, the administrator or executor may 1702
do so and include a report of the distribution in the 1703
administrator's or executor's succeeding account. 1704

In estates of decedents in which none of the legatees, 1705
devisees, or heirs is under a legal disability, each partial 1706
accounting of an executor or administrator may be waived by the 1707
written consent of all the legatees, devisees, or heirs filed in 1708
lieu of a partial accounting otherwise required. 1709

(B)(1) Every administrator and executor, within six months 1710
after appointment, shall render a final and distributive account 1711
of the administrator's or executor's administration of the estate 1712
unless one or more of the following circumstances apply: 1713

(a) An Ohio estate tax return must be filed for the estate. 1714

(b) A proceeding contesting the validity of the decedent's 1715
will pursuant to section 2107.71 of the Revised Code has been 1716
commenced. 1717

(c) The surviving spouse has filed an election ~~to take~~ 1718
~~against the will pursuant to sections 2106.02 and 2106.11 of the~~ 1719
Revised Code. 1720

(d) The administrator or executor is a party in a civil 1721
action. 1722

(e) The estate is insolvent. 1723

(f) For other reasons set forth by the administrator or 1724
executor, subject to court approval, it would be detrimental to 1725
the estate and its beneficiaries or heirs to file a final and 1726
distributive account. 1727

(2) In estates of decedents in which the sole legatee, 1728
devisee, or heir is also the administrator or executor of the 1729
estate, no partial accountings are required. The administrator or 1730
executor of an estate of that type shall file a final account or 1731
final and distributive account or, in lieu of filing a final 1732
account, the administrator or executor may file with the court 1733
within thirty days after completing the administration of the 1734
estate a certificate of termination of an estate that states all 1735
of the following: 1736

(a) All debts and claims presented to the estate have been 1737
paid in full or settled finally. 1738

(b) An estate tax return, if required under the provisions of 1739
the Internal Revenue Code or Chapter 5731. of the Revised Code, 1740
has been filed, and any estate tax has been paid. 1741

(c) All attorney's fees have been waived by or paid to 1742
counsel of record of the estate, and all executor or administrator 1743
fees have been waived or paid. 1744

(d) The amount of attorney's fees and the amount of 1745
administrator or executor fees that have been paid. 1746

(e) All assets remaining after completion of the activities 1747

described in divisions (B)(2)(a) to (d) of this section have been 1748
distributed to the sole legatee, devisee, or heir. 1749

(3) In an estate of the type described in division (B)(2) of 1750
this section, a sole legatee, devisee, or heir of a decedent may 1751
be liable to creditors for debts of and claims against the estate 1752
that are presented after the filing of the certificate of 1753
termination described in that division and within the time allowed 1754
by section 2117.06 of the Revised Code for presentation of the 1755
creditors' claims. 1756

(4) Not later than thirteen months after appointment, every 1757
administrator and executor shall render an account of the 1758
administrator's or executor's administration, unless a certificate 1759
of termination is filed under division (B)(2) of this section. 1760
Except as provided in divisions (B)(1) and (2) of this section, 1761
after the initial account is rendered, every administrator and 1762
executor shall render further accounts at least once each year. 1763

Sec. 2109.32. (A) Every fiduciary's account required by 1764
section 2109.301, 2109.302, or 2109.303 of the Revised Code shall 1765
be set for hearing before the probate court. The hearing on the 1766
account shall be set not earlier than thirty days after the filing 1767
of the account. 1768

At the hearing upon an account required by section 2109.302 1769
or 2109.303 of the Revised Code and, if ordered by the court, upon 1770
an account required by section 2109.301 of the Revised Code, the 1771
court shall inquire into, consider, and determine all matters 1772
relative to the account and the manner in which the fiduciary has 1773
executed the fiduciary's trust, including the investment of trust 1774
funds, and may order the account approved and settled or make any 1775
other order ~~as~~ that the court considers proper. If, at the hearing 1776
upon an account, the court finds that the fiduciary has fully and 1777
lawfully administered the estate or trust and has distributed the 1778

assets of the estate or trust in accordance with the law or the 1779
instrument governing distribution, as shown in the account, the 1780
court shall order the account approved and settled and may order 1781
the fiduciary discharged. Upon approval of a final and 1782
distributive account required by division (B)(1) of section 1783
2109.301 of the Revised Code, the court may order the surety bond 1784
for the fiduciary terminated. Unless otherwise ordered by the 1785
court, the fiduciary shall be discharged without further order 1786
twelve months following the approval of the final and distributive 1787
account. 1788

(B)(1) An administrator or executor filing an account 1789
pursuant to section 2109.301 of the Revised Code shall provide at 1790
the time of filing the account a copy of the account to each heir 1791
of an intestate estate or to each beneficiary of a testate estate. 1792
An administrator or executor is not required to provide a copy of 1793
the account to any of the following: 1794

(a) An heir or a beneficiary whose residence is unknown; 1795

(b) A beneficiary of a specific bequest or devise who has 1796
received his or her distribution and for which a receipt has been 1797
filed or exhibited with the court. 1798

(2) An administrator or executor filing an account pursuant 1799
to section 2109.301 of the Revised Code shall file with the 1800
probate court a certificate of service of account prior to or 1801
simultaneously with the filing of the account. 1802

(3) The probate court shall not approve the final account of 1803
any executor or administrator until the following events have 1804
occurred: 1805

(a) Three months have passed since the death of the decedent. 1806

(b) The surviving spouse has filed ~~an election to take under~~ 1807
~~or against the will~~ a petition for the elective share under 1808
section 2106.11 of the Revised Code, or the time for ~~making~~ filing 1809

the ~~election~~ petition has expired. 1810

(4) If an administrator or executor learns of the existence 1811
of newly discovered assets after the filing of the final account 1812
or otherwise comes into possession of assets belonging to the 1813
estate after the filing of the final account, the executor or 1814
administrator shall file a supplemental final account with respect 1815
to the disposition of the assets and shall provide a copy of the 1816
supplemental final account to each heir of an intestate estate or 1817
to each beneficiary of a testate estate, as provided in division 1818
(B)(1) of this section and subject to the exceptions specified in 1819
divisions (B)(1)(a) and (b) of this section. 1820

(C) The rights of any person with a pecuniary interest in the 1821
estate are not barred by approval of an account pursuant to 1822
divisions (A) and (B) of this section. These rights may be barred 1823
following a hearing on the account pursuant to section 2109.33 of 1824
the Revised Code. 1825

Sec. 2113.03. (A) Subject to division (D) of this section, an 1826
estate may be released from administration under division (B) of 1827
this section if either of the following applies: 1828

(1) The value of the assets of the estate is thirty-five 1829
thousand dollars or less. 1830

(2) The value of the assets of the estate is one hundred 1831
thousand dollars or less and either of the following applies: 1832

(a) The decedent devised and bequeathed in a valid will all 1833
of the assets of the decedent's estate to a person who is named in 1834
the will as the decedent's spouse, and the decedent is survived by 1835
that person. 1836

(b) The decedent is survived by a spouse whose marriage to 1837
the decedent was solemnized in a manner consistent with Chapter 1838
3101. of the Revised Code or with a similar law of another state 1839

or nation, the decedent died without a valid will, and the 1840
decedent's surviving spouse is entitled to receive all of the 1841
assets of the decedent's estate under section 2105.06 of the 1842
Revised Code or by the operation of that section and division 1843
(B)(1) or (2) of section ~~2106.13~~ 2106.23 of the Revised Code. 1844

(B) Upon the application of any interested party, after 1845
notice of the filing of the application has been given to the 1846
surviving spouse and heirs at law in the manner and for the length 1847
of time the probate court directs, and after notice to all 1848
interested parties by publication in a newspaper of general 1849
circulation in the county, unless the notices are waived or found 1850
unnecessary, the court, when satisfied that division (A)(1) or (2) 1851
of this section is satisfied, may enter an order relieving the 1852
estate from administration and directing delivery of personal 1853
property and transfer of real estate to the persons entitled to 1854
the personal property or real estate. 1855

For the purposes of this section, the value of an estate that 1856
reasonably can be considered to be in an amount specified in 1857
division (A)(1) or (2) of this section and that is not composed 1858
entirely of money, stocks, bonds, or other property the value of 1859
which is readily ascertainable, shall be determined by an 1860
appraiser selected by the applicant, subject to the approval of 1861
the court. The appraiser's valuation of the property shall be 1862
reported to the court in the application to relieve the estate 1863
from administration. The appraiser shall be paid in accordance 1864
with section 2115.06 of the Revised Code. 1865

For the purposes of this section, the amount of property to 1866
be delivered or transferred to the surviving spouse, minor 1867
children, or both, of the decedent as the allowance for support 1868
shall be established in accordance with section ~~2106.13~~ 2106.23 of 1869
the Revised Code. 1870

~~When~~ If a delivery, sale, or transfer of personal property 1871
has been ordered from an estate that has been relieved from 1872
administration, the court may appoint a commissioner to execute 1873
all necessary instruments of conveyance. The commissioner shall 1874
receipt for the property, distribute the proceeds of the 1875
conveyance upon court order, and report to the court after 1876
distribution. 1877

~~When~~ If the decedent died testate, the will shall be 1878
presented for probate, and, if admitted to probate, the court may 1879
relieve the estate from administration and order distribution of 1880
the estate under the will. 1881

An order of the court relieving an estate from administration 1882
shall have the same effect as administration proceedings in 1883
freeing land in the hands of an innocent purchaser for value from 1884
possible claims of unsecured creditors. 1885

(C) Any delivery of personal property or transfer of real 1886
estate pursuant to an order relieving an estate from 1887
administration is made subject to the limitations pertaining to 1888
the claims of creditors set forth in divisions (B) and (C) of 1889
section 2117.06 of the Revised Code. 1890

(D) The release of an estate from administration under this 1891
section does not affect any duty of any person to file an estate 1892
tax return and certificate under division (A) of section 5731.21 1893
of the Revised Code and does not affect the duties of a probate 1894
court set forth in that division. 1895

(E) This section does not affect the ability of qualified 1896
persons to file an application for a summary release from 1897
administration under section 2113.031 of the Revised Code or to 1898
file an application for the grant of letters testamentary or 1899
letters of administration. 1900

Sec. 2113.031. (A) As used in this section:	1901
(1) "Financial institution" has the same meaning as in section 5725.01 of the Revised Code. "Financial institution" also includes a credit union and a fiduciary that is not a trust company but that does trust business.	1902 1903 1904 1905
(2) "Funeral and burial expenses" means whichever of the following applies:	1906 1907
(a) The funeral and burial expenses of the decedent that are included in the bill of a funeral director;	1908 1909
(b) The funeral expenses of the decedent that are not included in the bill of a funeral director and that have been approved by the probate court;	1910 1911 1912
(c) The funeral and burial expenses of the decedent that are described in divisions (A)(2)(a) and (b) of this section.	1913 1914
(3) "Surviving spouse" means either of the following:	1915
(a) The surviving spouse of a decedent who died leaving the surviving spouse and no minor children;	1916 1917
(b) The surviving spouse of a decedent who died leaving the surviving spouse and minor children, all of whom are children of the decedent and the surviving spouse.	1918 1919 1920
(B)(1) If the value of the assets of the decedent's estate does not exceed the lesser of two thousand dollars or the amount of the decedent's funeral and burial expenses, any person who is not a surviving spouse and who has paid or is obligated in writing to pay the decedent's funeral and burial expenses may apply to the probate court for an order granting a summary release from administration in accordance with this section.	1921 1922 1923 1924 1925 1926 1927
(2) If either of the following applies, the decedent's surviving spouse may apply to the probate court for an order	1928 1929

granting a summary release from administration in accordance with 1930
this section: 1931

(a) The decedent's funeral and burial expenses have been 1932
prepaid, and the value of the assets of the decedent's estate does 1933
not exceed the total of the following items: 1934

(i) The allowance for support that is made under division (A) 1935
of section ~~2106.13~~ 2106.23 of the Revised Code to the surviving 1936
spouse and, if applicable, to the decedent's minor children and 1937
that is distributable in accordance with division (B)(1) or (2) of 1938
that section; 1939

(ii) An amount, not exceeding two thousand dollars, for the 1940
decedent's funeral and burial expenses referred to in division 1941
(A)(2)(c) of this section. 1942

(b) The decedent's funeral and burial expenses have not been 1943
prepaid, the decedent's surviving spouse has paid or is obligated 1944
in writing to pay the decedent's funeral and burial expenses, and 1945
the value of the assets of the decedent's estate does not exceed 1946
the total of the items referred to in divisions (B)(2)(a)(i) and 1947
(ii) of this section. 1948

(C) A probate court shall order a summary release from 1949
administration in connection with a decedent's estate only if the 1950
court finds that all of the following are satisfied: 1951

(1) A person described in division (B)(1) of this section is 1952
the applicant for a summary release from administration, and the 1953
value of the assets of the decedent's estate does not exceed the 1954
lesser of two thousand dollars or the amount of the decedent's 1955
funeral and burial expenses, or the applicant for a summary 1956
release from administration is the decedent's surviving spouse, 1957
and the circumstances described in division (B)(2)(a) or (b) of 1958
this section apply. 1959

(2) The application for a summary release from administration	1960
does all of the following:	1961
(a) Describes all assets of the decedent's estate that are	1962
known to the applicant;	1963
(b) Is in the form that the supreme court prescribes pursuant	1964
to its powers of superintendence under Section 5 of Article IV,	1965
Ohio Constitution, and is consistent with the requirements of this	1966
division;	1967
(c) Has been signed and acknowledged by the applicant in the	1968
presence of a notary public or a deputy clerk of the probate	1969
court;	1970
(d) Sets forth the following information if the decedent's	1971
estate includes a described type of asset:	1972
(i) If the decedent's estate includes a motor vehicle, the	1973
motor vehicle's year, make, model, body type, manufacturer's	1974
vehicle identification number, certificate of title number, and	1975
date of death value;	1976
(ii) If the decedent's estate includes an account maintained	1977
by a financial institution, that institution's name and the	1978
account's complete identifying number and date of death balance;	1979
(iii) If the decedent's estate includes one or more shares of	1980
stock or bonds, the total number of the shares and bonds and their	1981
total date of death value and, for each share or bond, its serial	1982
number, the name of its issuer, its date of death value, and, if	1983
any, the name and address of its transfer agent.	1984
(3) The application for a summary release from administration	1985
is accompanied by all of the following that apply:	1986
(a) A receipt, contract, or other document that confirms the	1987
applicant's payment or obligation to pay the decedent's funeral	1988
and burial expenses or, if applicable in the case of the	1989

decedent's surviving spouse, the prepayment of the decedent's	1990
funeral and burial expenses;	1991
(b) An application for a certificate of transfer as described	1992
in section 2113.61 of the Revised Code, if an interest in real	1993
property is included in the assets of the decedent's estate;	1994
(c) The fee required by division (A)(59) of section 2101.16	1995
of the Revised Code.	1996
(4) At the time of its determination on the application,	1997
there are no pending proceedings for the administration of the	1998
decedent's estate and no pending proceedings for relief of the	1999
decedent's estate from administration under section 2113.03 of the	2000
Revised Code.	2001
(5) At the time of its determination on the application,	2002
there are no known assets of the decedent's estate other than the	2003
assets described in the application.	2004
(D) If the probate court determines that the requirements of	2005
division (C) of this section are satisfied, the probate court	2006
shall issue an order that grants a summary release from	2007
administration in connection with the decedent's estate. The order	2008
has, and shall specify that it has, all of the following effects:	2009
(1) It relieves the decedent's estate from administration.	2010
(2) It directs the delivery to the applicant of the	2011
decedent's personal property together with the title to that	2012
property.	2013
(3) It directs the transfer to the applicant of the title to	2014
any interests in real property included in the decedent's estate.	2015
(4) It eliminates the need for a financial institution,	2016
corporation, or other entity or person referred to in any	2017
provision of divisions (A) to (F) of section 5731.39 of the	2018
Revised Code to obtain, as otherwise would be required by any of	2019

those divisions, the written consent of the tax commissioner prior 2020
to the delivery, transfer, or payment to the applicant of an asset 2021
of the decedent's estate. 2022

(E) A certified copy of an order that grants a summary 2023
release from administration together with a certified copy of the 2024
application for that order constitutes sufficient authority for a 2025
financial institution, corporation, or other entity or person 2026
referred to in divisions (A) to (F) of section 5731.39 of the 2027
Revised Code or for a clerk of a court of common pleas to transfer 2028
title to an asset of the decedent's estate to the applicant for 2029
the summary release from administration. 2030

(F) This section does not affect the ability of qualified 2031
persons to file an application to relieve an estate from 2032
administration under section 2113.03 of the Revised Code or to 2033
file an application for the grant of letters testamentary or 2034
letters of administration in connection with the decedent's 2035
estate. 2036

Sec. 2113.23. ~~When~~ if letters of administration are revoked, 2037
~~when~~ if an executor or administrator, or administrator with the 2038
will annexed, is removed, resigns, or dies, ~~when~~ if a will is 2039
declared invalid, or ~~when~~ if an election ~~to take~~ under ~~section~~ 2040
~~2105.06~~ sections 2106.02 and 2106.11 of the Revised Code is made 2041
by or for a surviving spouse, all previous sales, leases, 2042
encumbrances, whether of real or personal property, made lawfully 2043
and in good faith by the executor or administrator, or 2044
administrator with the will annexed, and with good faith on the 2045
part of the purchasers, and all lawful acts done in the settlement 2046
of the estate or execution of the will shall be valid as to ~~such~~ 2047
that executor, administrator, or administrator with the will 2048
annexed, those purchasers for value in good faith, lessees for 2049
value in good faith, and encumbrancers for value in good faith, 2050

all other parties dealing with ~~said that~~ that fiduciary for value in 2051
good faith, and all parties lawfully claiming by, through or under 2052
any of them. ~~But~~ However, the sums paid out or distributed to 2053
legatees or other distributees, ~~when~~ if necessary for the proper 2054
execution of a will or administration of an estate, may be 2055
recovered from the persons receiving them. 2056

Sec. 2113.53. (A) At any time after the appointment of an 2057
executor or administrator, the executor or administrator may 2058
distribute to the beneficiaries entitled to assets of the estate 2059
under the will, if there is no action pending to set aside the 2060
will, or to the heirs entitled to assets of the estate by law, in 2061
cash or in kind, any part or all of the assets of the estate. Each 2062
beneficiary or heir is liable to return the assets or the proceeds 2063
from the assets to the estate if they are necessary to satisfy the 2064
elective share of a surviving spouse who ~~elects to take against~~ 2065
~~the will~~ makes an election pursuant to ~~section 2106.01~~ sections 2066
2106.02 and 2106.11 of the Revised Code or if the will is set 2067
aside. 2068

(B) After distribution pursuant to division (A) of this 2069
section, a distributee shall be personally liable to a claimant 2070
who presents a valid claim within the time set forth in division 2071
(B) of section 2117.06 of the Revised Code, subject to the 2072
limitations described in this division. 2073

If presentation of a claim is made pursuant to division 2074
(A)(2) of section 2117.06 of the Revised Code, only those 2075
distributees who have received timely presentation of the claim 2076
pursuant to division (B) of that section have any liability for 2077
the claim, subject to the limitations described in this division. 2078

The personal liability of any distributee shall not exceed 2079
the lesser of the following: 2080

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

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

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

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

(C) If there is a surviving spouse and if the executor or administrator distributes any part of the assets of the estate before the expiration of the times described in division ~~(E)~~(A) or (B) of section ~~2106.01~~ 2106.11 of the Revised Code for the making of an election by a surviving spouse, the executor or administrator shall be personally liable to any surviving spouse who subsequently ~~elects to take against the will~~ makes an election. If the executor or administrator distributes any part of the assets of the estate within three months after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims within that three-month period. If the executor or administrator distributes any part of the assets of the estate more than three months but less than one year after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims before the time of distribution

and within the time set forth in division (B) of section 2117.06 2112
of the Revised Code. 2113

The executor or administrator shall be liable only to the 2114
extent that the sum of the remaining assets of the estate and the 2115
assets returned by the beneficiaries or heirs is insufficient to 2116
satisfy the elective share of the surviving spouse and to satisfy 2117
the claims against the estate. The executor or administrator shall 2118
not be liable in any case for an amount greater than the value of 2119
the estate that existed at the time that the distribution of 2120
assets was made and that was subject to the spouse's elective 2121
share or to the claims. 2122

(D) The executor or administrator may provide for the payment 2123
of rejected claims or claims in suit by setting aside a sufficient 2124
amount of the assets of the estate for paying the claims. The 2125
assets shall be set aside for the payment of the claims in a 2126
manner approved by the probate court. Each claimant for whom 2127
assets are to be set aside shall be given notice, in the manner ~~as~~ 2128
that the court shall order, of the hearing upon the application to 2129
set aside assets and shall have the right to be fully heard as to 2130
the nature and amount of the assets to be set aside for payment of 2131
the claim and as to all other conditions in connection with the 2132
claim. In any case in which the executor or administrator may set 2133
aside assets as provided in this section, the court, upon its own 2134
motion or upon application of the executor or administrator, as a 2135
condition precedent to any distribution, may require any 2136
beneficiary or heir to give a bond to the state with surety 2137
approved and in an amount fixed by the court, conditioned to 2138
secure the return of the assets to be distributed, or the proceeds 2139
from the assets or as much of the assets as may be necessary to 2140
satisfy the claims that may be recovered against the estate, and 2141
to indemnify the executor or administrator against loss and damage 2142
on account of ~~such~~ the distribution. The bond may be in addition 2143

to the assets to be set aside or partially or wholly in lieu of 2144
the assets, as the court shall determine. 2145

Sec. 2113.54. When five months have expired after the 2146
appointment of an executor or administrator and the surviving 2147
spouse has made an election under ~~section 2106.01~~ sections 2106.02 2148
and 2106.11 of the Revised Code, a legatee or distributee may 2149
apply to the probate court for an order requiring the executor or 2150
administrator to distribute the assets of the estate, either in 2151
whole or in part, in cash or in kind. Upon notice to the executor 2152
or administrator, the court shall inquire into the condition of 2153
the estate, and, if all claims have been paid, or adequate 2154
provision has been or can be made for their payment, the court 2155
shall make ~~such an~~ an order with reference to distribution of the 2156
estate ~~as that~~ the condition of the estate and the protection of 2157
all parties interested in the estate may demand. The order of the 2158
court shall provide that assets be set aside for the payment of 2159
claims rejected within two months or in suit, and each claimant 2160
for whom assets are to be set aside shall be entitled to be fully 2161
heard as to the nature and amount of the assets to be set aside 2162
for payment of ~~his~~ the claim, and as to all other conditions in 2163
connection with the claim. Each legatee or distributee receiving 2164
distribution from the estate shall be liable to return the assets 2165
distributed to ~~him~~ the legatee or distributee, or the proceeds 2166
from the assets, if they are necessary to pay ~~such~~ those claims. 2167
The court, upon its own motion or upon application of the executor 2168
or administrator, as a condition precedent to any distribution, 2169
may require any legatee or distributee to give bond to the state 2170
with surety approved and in an amount fixed by the court, 2171
conditioned as provided in section 2113.53 of the Revised Code or 2172
as may be directed by the court. ~~Such~~ The bond may be in addition 2173
to the assets to be set aside or partially or wholly in lieu of 2174
those assets, as the court shall determine. 2175

Sec. 2113.86. (A) Unless a will or another governing 2176
instrument otherwise provides, and except as otherwise provided in 2177
this section, a tax shall be apportioned equitably in accordance 2178
with the provisions of this section among all persons interested 2179
in an estate in proportion to the value of the interest of each 2180
person as determined for estate tax purposes. 2181

(B) Except as otherwise provided in this division, any tax 2182
that is apportioned against a gift made in a clause of a will 2183
other than a residuary clause or in a provision of an inter vivos 2184
trust other than a residuary provision, shall be reapportioned to 2185
the residue of the estate or trust. It shall be charged in the 2186
same manner as a general administration expense. However, when a 2187
portion of the residue of the estate or trust is allowable as a 2188
deduction for estate tax purposes, the tax shall be reapportioned 2189
to the extent possible to the portion of the residue that is not 2190
so allowable. 2191

(C)(1) A tax shall not be apportioned against an interest 2192
that is allowable as an estate tax marital or charitable 2193
deduction, except to the extent that the interest is a part of the 2194
residue of an estate or trust against which tax is reapportioned 2195
pursuant to division (B) of this section. 2196

(2) Estate tax of this state or another jurisdiction shall 2197
not be reapportioned against an interest that is allowable as a 2198
deduction for federal estate tax purposes, to the extent that 2199
there is other property in the estate or trust that is not 2200
allowable as a deduction for federal estate tax purposes and 2201
against which estate tax of this state or another jurisdiction can 2202
be apportioned. 2203

(D) A tax shall not be apportioned against property that 2204
passes to a surviving spouse as an elective share under section 2205
~~2106.01~~ 2106.02 of the Revised Code or as an intestate share under 2206

section 2105.06 of the Revised Code, to the extent that there is 2207
other property in the estate that is not allowable as a deduction 2208
for estate tax purposes against which the tax can be apportioned. 2209

(E)(1) Any federal estate tax credit for state or foreign 2210
death taxes on property that is ~~includible~~ includable in an estate 2211
for federal estate tax purposes, shall inure to the benefit of the 2212
persons chargeable with the payment of the state or foreign death 2213
taxes in proportion to the amount of the taxes paid by each 2214
person, but any federal estate tax credit for state or foreign 2215
death taxes inuring to the benefit of a person cannot exceed the 2216
federal estate tax apportioned to that person. 2217

(2) Any federal estate tax credit for gift taxes paid by a 2218
donee of a gift shall inure to the benefit of that donee for 2219
purposes of this section. 2220

(3) Credits against tax not covered by division (E)(1) or (2) 2221
of this section shall be apportioned equitably among persons in 2222
the manner in which the tax is apportioned among them. 2223

(F) Any additional estate tax that is due because a qualified 2224
heir has disposed of qualified farm property in a manner not 2225
authorized by law or ceased to use any part of the qualified farm 2226
property for a qualified use, shall be apportioned against the 2227
interest of the qualified heir. 2228

(G) If both a present interest and a future interest in 2229
property are involved, a tax shall be apportioned entirely to the 2230
principal. This shall be the case even if the future interest 2231
qualifies for an estate tax charitable deduction, even if the 2232
holder of the present interest also has rights in the principal, 2233
and even if the principal is otherwise exempt from apportionment. 2234

(H) Penalties shall be apportioned in the same manner as a 2235
tax, and interest on tax shall be apportioned to the income of the 2236
estate or trust, unless a court directs a different apportionment 2237

of penalties or interest based on a finding that special 2238
circumstances make an apportionment as provided in this division 2239
inequitable. 2240

(I) If any part of an estate consists of property, the value 2241
of which is included in the gross estate of the decedent by reason 2242
of section 2044 of the "Internal Revenue Code of 1986," 100 Stat. 2243
2085, 26 U.S.C.A. 2044, as amended, or of section 5731.131 of the 2244
Revised Code, the estate is entitled to recover from the persons 2245
holding or receiving the property any amount by which the estate 2246
tax payable exceeds the estate tax that would have been payable if 2247
the value of the property had not been included in the gross 2248
estate of the decedent. This division does not apply if a decedent 2249
provides otherwise in ~~his~~ the decedent's will or another governing 2250
instrument and the will or instrument refers to either section 2251
mentioned in this division or to qualified terminable interest 2252
marital deduction property. 2253

Sec. 2115.16. Upon the filing of the inventory required by 2254
section 2115.02 of the Revised Code, the probate court forthwith 2255
shall set a day, not later than one month after the day the 2256
inventory was filed, for a hearing on the inventory. 2257

The executor or administrator may serve notice of the 2258
hearing, or may cause the notice to be served, upon any person who 2259
is interested in the estate. The probate court, after notice to 2260
the executor or administrator, either upon the motion of any 2261
interested party for good cause shown or at its own instance, may 2262
order that notice of the hearing ~~is to~~ be served upon persons that 2263
the court designates. 2264

For good cause, the hearing may be continued for the time 2265
that the court considers reasonable. Exceptions to the inventory 2266
or to the allowance for support provided by section ~~2106.13~~ 2267
2106.23 of the Revised Code may be filed at any time prior to five 2268

days before the date set for the hearing or the date to which the hearing has been continued by any person interested in the estate or in any of the property included in the inventory, but the time limit for the filing of exceptions shall not apply in case of fraud or concealment of assets. When exceptions are filed, notice of them and the time of the hearing on them forthwith shall be given to the executor or administrator and ~~his~~ the attorney of the executor or administrator by certified mail or by personal service, unless the notice is waived. At the hearing, the executor or administrator and any witness may be examined under oath. The court shall enter its finding on the journal and tax the costs as may be equitable.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent and shall apply the assets in the following order:

(1) Costs and expenses of administration;

(2) An amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding two thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.

For purposes of this division, burial and cemetery expenses shall be limited to the following:

(a) The purchase of a place of interment;

(b) Monuments or other markers;

(c) The outer burial container;

(d) The cost of opening and closing the place of interment;

(e) The urn.	2299
(3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 <u>2106.23</u> of the Revised Code;	2300 2301 2302
(4) Debts entitled to a preference under the laws of the United States;	2303 2304
(5) Expenses of the last sickness of the decedent;	2305
(6) If the total bill of a funeral director for funeral expenses exceeds two thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding one thousand dollars, for funeral expenses that are included in the bill and that exceed two thousand dollars;	2306 2307 2308 2309 2310
(7) Personal property taxes, claims made under the estate recovery program instituted pursuant to section 5111.11 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;	2311 2312 2313 2314
(8) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;	2315 2316 2317
(9) Other debts for which claims have been presented and finally allowed.	2318 2319
(B) The part of the bill of a funeral director that exceeds the total of three thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)(8) of this section that exceeds three hundred dollars shall be included as a debt under division (A)(9) of this section, depending upon the time when the claim for the additional amount is presented.	2320 2321 2322 2323 2324 2325 2326
(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be	2327 2328

subrogated to the rights of that creditor proportionate to the 2329
amount of the payment and shall be entitled to reimbursement for 2330
that amount in accordance with the priority of payments set forth 2331
in that division. 2332

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 2333
to the manner in which and the time within which claims shall be 2334
presented, shall apply to claims set forth in divisions (A)(2), 2335
(6), and (8) of this section. Claims for an expense of 2336
administration or for the allowance for support need not be 2337
presented. The executor or administrator shall pay debts included 2338
in divisions (A)(4) and (7) of this section, of which the executor 2339
or administrator has knowledge, regardless of presentation. 2340

(2) The giving of written notice to an executor or 2341
administrator of a motion or application to revive an action 2342
pending against the decedent at the date of death shall be 2343
equivalent to the presentation of a claim to the executor or 2344
administrator for the purpose of determining the order of payment 2345
of any judgment rendered or decree entered in such an action. 2346

(E) No payments shall be made to creditors of one class until 2347
all those of the preceding class are fully paid or provided for. 2348
If the assets are insufficient to pay all the claims of one class, 2349
the creditors of that class shall be paid ratably. 2350

(F) If it appears at any time that the assets have been 2351
exhausted in paying prior or preferred charges, allowances, or 2352
claims, those payments shall be a bar to an action on any claim 2353
not entitled to that priority or preference. 2354

Sec. 2127.02. As soon as an executor or administrator 2355
ascertains that the personal property in ~~his~~ the hands of the 2356
executor or administrator is insufficient to pay all the debts of 2357
the decedent, together with the allowance for support to the 2358

surviving spouse, minor children, or surviving spouse and minor 2359
children of the decedent as provided in section ~~2106.13~~ 2106.23 of 2360
the Revised Code, and the costs of administering the estate, ~~he~~ 2361
the executor or administrator shall commence a civil action in the 2362
probate court for authority to sell the decedent's real property. 2363

Sec. 2127.03. ~~When~~ If by operation of law or the provisions 2364
of a will, a legacy is effectual to charge real property, and the 2365
personal property is insufficient to pay the legacy, together with 2366
all the debts, the allowance to the surviving spouse, minor 2367
children, or surviving spouse and minor children as provided in 2368
section ~~2106.13~~ 2106.23 of the Revised Code, and the costs of 2369
administering the estate, the executor, administrator, or 2370
administrator with the will annexed shall commence a civil action 2371
in the probate court for authority to sell the real property so 2372
charged. 2373

If the executor, administrator, or administrator with the 2374
will annexed fails to commence the action mentioned in this 2375
section or section 2127.02 of the Revised Code, the probate court 2376
in which letters testamentary have been granted, upon its own 2377
motion or upon motion by a creditor or legatee, shall order the 2378
executor, administrator, or administrator with the will annexed to 2379
commence such an action, and proceed in the manner prescribed in 2380
this chapter. 2381

Sec. 2127.31. An order to sell the real property of a 2382
decedent shall not be granted in an action by an executor or 2383
administrator, if, after the action is commenced and before the 2384
order of sale is granted, any person interested in the estate 2385
gives bond to the executor or administrator in a sum with sureties 2386
approved by the probate court, conditioned to pay all debts and 2387
legacies found due from the estate, the charges of administration, 2388

and the allowance for support to the surviving spouse, minor 2389
children, or surviving spouse and minor children of the decedent 2390
as provided in section ~~2106.13~~ 2106.23 of the Revised Code, 2391
insofar as the personal property of the decedent is insufficient. 2392
If the bond is not given until after the order of sale is granted, 2393
and the executor or administrator in reliance on the bond abates 2394
the action, the bond shall be binding upon the obligors, and may 2395
be enforced as though given prior to the granting of the order of 2396
sale. 2397

Sec. 2127.41. If, after the institution of proceedings for 2398
the partition of the real property of a decedent, it is found that 2399
the assets in the hands of the executor or administrator probably 2400
are insufficient to pay the debts of the estate, together with the 2401
allowance for support of the surviving spouse, minor children, or 2402
surviving spouse and minor children as provided in section ~~2106.13~~ 2403
2106.23 of the Revised Code, the expenses of administration, and 2404
the legacies that are a charge upon the real property, the 2405
executor or administrator shall make a written statement to the 2406
probate court of the assets, indebtedness, expenses, and legacies, 2407
and the court forthwith shall ascertain the amount necessary to 2408
pay the debts, expenses, and legacies and give a certificate of 2409
the amount to the executor or administrator. 2410

The executor or administrator then shall present the 2411
certificate to the court in which the proceedings for partition 2412
are or have been pending, and, on ~~his~~ the motion of the executor 2413
or administrator, the court shall order the amount named in the 2414
certificate to be paid over to the executor or administrator out 2415
of the proceeds of the sale of the premises, if thereafter they 2416
are sold or already have been sold. This section does not prohibit 2417
an executor or administrator from proceeding to sell real property 2418
belonging to the estate for the payment of debts or legacies, 2419

although it has been sold on partition or otherwise, or the 2420
proceeds of the sale have been fully distributed. 2421

Sec. 2129.07. (A) An authenticated copy of a will executed, 2422
proved, and allowed in a country other than the United States and 2423
territories of the United States, and the probate of that will 2424
shall be produced by the executor, or by a person interested in 2425
the will, to the probate court of the county in which there is any 2426
estate upon which the will may operate. The court then shall 2427
continue the application to admit it to probate for two months. 2428
Notice of the filing of the application shall be given to all 2429
persons interested in the will, in a public newspaper published in 2430
or in general circulation in the county in which the application 2431
is made, at least three weeks consecutively. The first publication 2432
shall be at least forty days before the time set for the final 2433
hearing of the application. If on the final hearing, it appears to 2434
the court that the instrument ~~ought to~~ should be allowed in this 2435
state, it shall order the copy to be filed and recorded. The will, 2436
and the probate and record of it, then shall have the same effect 2437
as if the will originally had been proved and allowed in that 2438
court. 2439

(B) This section does not give effect to the will of an alien 2440
different from that which it would have had if originally proved 2441
and allowed in this state. 2442

(C) When the copy of the will has been filed and recorded, 2443
and ~~when~~ if no ancillary administration proceedings have been had 2444
or are being had in this state, sections 2106.01 to ~~2106.08~~ 2445
2106.14 of the Revised Code, relating to the election of a 2446
surviving spouse, shall apply in the same manner as in the case of 2447
resident decedents, except that an election under ~~section 2106.01~~ 2448
sections 2106.02 and 2106.11 of the Revised Code shall not be made 2449
subject to division ~~(E)~~(A) or (B) of ~~that~~ section 2106.11 of the 2450

Revised Code, but instead shall be made at any time after the 2451
death of a decedent but not later than six months after the 2452
recording of the copy of the will. 2453

Sec. 2329.83. Sections 2327.01 and 2327.02 and Chapters 2329. 2454
and 2331. of the Revised Code do not impair the right of 2455
contingent or vested dower, the right to remain in the mansion 2456
house set forth in section ~~2106.15~~ 2106.24 of the Revised Code, or 2457
the mode provided by law for enforcing those rights. 2458

Sec. 4505.06. (A)(1) Application for a certificate of title 2459
shall be made in a form prescribed by the registrar of motor 2460
vehicles and shall be sworn to before a notary public or other 2461
officer empowered to administer oaths. The application shall be 2462
filed with the clerk of any court of common pleas. An application 2463
for a certificate of title may be filed electronically by any 2464
electronic means approved by the registrar in any county with the 2465
clerk of the court of common pleas of that county. Any payments 2466
required by this chapter shall be considered as accompanying any 2467
electronically transmitted application when payment actually is 2468
received by the clerk. Payment of any fee or taxes may be made by 2469
electronic transfer of funds. 2470

(2) The application for a certificate of title shall be 2471
accompanied by the fee prescribed in section 4505.09 of the 2472
Revised Code. The fee shall be retained by the clerk who issues 2473
the certificate of title and shall be distributed in accordance 2474
with that section. If a clerk of a court of common pleas, other 2475
than the clerk of the court of common pleas of an applicant's 2476
county of residence, issues a certificate of title to the 2477
applicant, the clerk shall transmit data related to the 2478
transaction to the automated title processing system. 2479

(3) If a certificate of title previously has been issued for 2480

a motor vehicle in this state, the application for a certificate
of title also shall be accompanied by that certificate of title
duly assigned, unless otherwise provided in this chapter. If a
certificate of title previously has not been issued for the motor
vehicle in this state, the application, unless otherwise provided
in this chapter, shall be accompanied by a manufacturer's or
importer's certificate or by a certificate of title of another
state from which the motor vehicle was brought into this state. If
the application refers to a motor vehicle last previously
registered in another state, the application also shall be
accompanied by the physical inspection certificate required by
section 4505.061 of the Revised Code. If the application is made
by two persons regarding a motor vehicle in which they wish to
establish joint ownership with right of survivorship, they may do
so as provided in section 2131.12 of the Revised Code. If the
applicant requests a designation of the motor vehicle in
beneficiary form so that upon the death of the owner of the motor
vehicle, ownership of the motor vehicle will pass to a designated
transfer-on-death beneficiary or beneficiaries, the applicant may
do so as provided in section 2131.13 of the Revised Code. A person
who establishes ownership of a motor vehicle that is transferable
on death in accordance with section 2131.13 of the Revised Code
may terminate that type of ownership or change the designation of
the transfer-on-death beneficiary or beneficiaries by applying for
a certificate of title pursuant to this section. The clerk shall
retain the evidence of title presented by the applicant and on
which the certificate of title is issued, except that, if an
application for a certificate of title is filed electronically by
an electronic motor vehicle dealer on behalf of the purchaser of a
motor vehicle, the clerk shall retain the completed electronic
record to which the dealer converted the certificate of title
application and other required documents. The registrar, after
consultation with the attorney general, shall adopt rules that

govern the location at which, and the manner in which, are stored 2514
the actual application and all other documents relating to the 2515
sale of a motor vehicle when an electronic motor vehicle dealer 2516
files the application for a certificate of title electronically on 2517
behalf of the purchaser. 2518

The clerk shall use reasonable diligence in ascertaining 2519
whether or not the facts in the application for a certificate of 2520
title are true by checking the application and documents 2521
accompanying it or the electronic record to which a dealer 2522
converted the application and accompanying documents with the 2523
records of motor vehicles in the clerk's office. If the clerk is 2524
satisfied that the applicant is the owner of the motor vehicle and 2525
that the application is in the proper form, the clerk, within five 2526
business days after the application is filed and except as 2527
provided in section 4505.021 of the Revised Code, shall issue a 2528
physical certificate of title over the clerk's signature and 2529
sealed with the clerk's seal, unless the applicant specifically 2530
requests the clerk not to issue a physical certificate of title 2531
and instead to issue an electronic certificate of title. For 2532
purposes of the transfer of a certificate of title, if the clerk 2533
is satisfied that the secured party has duly discharged a lien 2534
notation but has not canceled the lien notation with a clerk, the 2535
clerk may cancel the lien notation on the automated title 2536
processing system and notify the clerk of the county of origin. 2537

(4) In the case of the sale of a motor vehicle to a general 2538
buyer or user by a dealer, by a motor vehicle leasing dealer 2539
selling the motor vehicle to the lessee or, in a case in which the 2540
leasing dealer subleased the motor vehicle, the sublessee, at the 2541
end of the lease agreement or sublease agreement, or by a 2542
manufactured home broker, the certificate of title shall be 2543
obtained in the name of the buyer by the dealer, leasing dealer, 2544
or manufactured home broker, as the case may be, upon application 2545

signed by the buyer. The certificate of title shall be issued, or
the process of entering the certificate of title application
information into the automated title processing system if a
physical certificate of title is not to be issued shall be
completed, within five business days after the application for
title is filed with the clerk. If the buyer of the motor vehicle
previously leased the motor vehicle and is buying the motor
vehicle at the end of the lease pursuant to that lease, the
certificate of title shall be obtained in the name of the buyer by
the motor vehicle leasing dealer who previously leased the motor
vehicle to the buyer or by the motor vehicle leasing dealer who
subleased the motor vehicle to the buyer under a sublease
agreement.

In all other cases, except as provided in section 4505.032
and division (D)(2) of section 4505.11 of the Revised Code, ~~such~~
those certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in
the name of the buyer by a motor vehicle dealer or motor vehicle
leasing dealer and there is a security interest to be noted on the
certificate of title, the dealer or leasing dealer shall submit
the application for the certificate of title and payment of the
applicable tax to a clerk within seven business days after the
later of the delivery of the motor vehicle to the buyer or the
date the dealer or leasing dealer obtains the manufacturer's or
importer's certificate, or certificate of title issued in the name
of the dealer or leasing dealer, for the motor vehicle. Submission
of the application for the certificate of title and payment of the
applicable tax within the required seven business days may be
indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the
security interest noted on its face, the dealer or leasing dealer
shall forward the certificate of title to the secured party at the

location noted in the financing documents or otherwise specified 2578
by the secured party. 2579

(iii) A motor vehicle dealer or motor vehicle leasing dealer 2580
is liable to a secured party for a late fee of ten dollars per day 2581
for each certificate of title application and payment of the 2582
applicable tax that is submitted to a clerk more than seven 2583
business days but less than twenty-one days after the later of the 2584
delivery of the motor vehicle to the buyer or the date the dealer 2585
or leasing dealer obtains the manufacturer's or importer's 2586
certificate, or certificate of title issued in the name of the 2587
dealer or leasing dealer, for the motor vehicle and, from then on, 2588
twenty-five dollars per day until the application and applicable 2589
tax are submitted to a clerk. 2590

(b) In all cases of transfer of a motor vehicle, the 2591
application for certificate of title shall be filed within thirty 2592
days after the assignment or delivery of the motor vehicle. If an 2593
application for a certificate of title is not filed within the 2594
period specified in division (A)(5)(b) of this section, the clerk 2595
shall collect a fee of five dollars for the issuance of the 2596
certificate, except that ~~no such~~ the fee shall not be required 2597
from a motor vehicle salvage dealer, as defined in division (A) of 2598
section 4738.01 of the Revised Code, who immediately surrenders 2599
the certificate of title for cancellation. The fee shall be in 2600
addition to all other fees established by this chapter, and shall 2601
be retained by the clerk. The registrar shall provide, on the 2602
certificate of title form prescribed by section 4505.07 of the 2603
Revised Code, language necessary to give evidence of the date on 2604
which the assignment or delivery of the motor vehicle was made. 2605

(6) As used in division (A) of this section, "lease 2606
agreement," "lessee," and "sublease agreement" have the same 2607
meanings as in section 4505.04 of the Revised Code. 2608

(B) The clerk, except as provided in this section, shall 2609
refuse to accept for filing any application for a certificate of 2610
title and shall refuse to issue a certificate of title unless the 2611
dealer or manufactured home broker or the applicant, in cases in 2612
which the certificate shall be obtained by the buyer, submits with 2613
the application payment of the tax levied by or pursuant to 2614
Chapters 5739. and 5741. of the Revised Code based on the 2615
purchaser's county of residence. Upon payment of the tax in 2616
accordance with division (E) of this section, the clerk shall 2617
issue a receipt prescribed by the registrar and agreed upon by the 2618
tax commissioner showing payment of the tax or a receipt issued by 2619
the commissioner showing the payment of the tax. When submitting 2620
payment of the tax to the clerk, a dealer shall retain any 2621
discount to which the dealer is entitled under section 5739.12 of 2622
the Revised Code. 2623

For receiving and disbursing ~~such~~ the taxes paid to the clerk 2624
by a resident of the clerk's county, the clerk may retain a 2625
poundage fee of one and one one-hundredth per cent, and the clerk 2626
shall pay the poundage fee into the certificate of title 2627
administration fund created by section 325.33 of the Revised Code. 2628
The clerk shall not retain a poundage fee from payments of taxes 2629
by persons who do not reside in the clerk's county. 2630

A clerk, however, may retain from the taxes paid to the clerk 2631
an amount equal to the poundage fees associated with certificates 2632
of title issued by other clerks of courts of common pleas to 2633
applicants who reside in the first clerk's county. The registrar, 2634
in consultation with the tax commissioner and the clerks of the 2635
courts of common pleas, shall develop a report from the automated 2636
title processing system that informs each clerk of the amount of 2637
the poundage fees that the clerk is permitted to retain from those 2638
taxes because of certificates of title issued by the clerks of 2639
other counties to applicants who reside in the first clerk's 2640

county.

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In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

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(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

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The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

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(2) Division (C)(1) of this section does not require the

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giving of information concerning the odometer and odometer reading 2672
of a motor vehicle when ownership of a motor vehicle is being 2673
transferred as a result of a bequest, under the laws of intestate 2674
succession, to a survivor pursuant to section ~~2106.18~~ 2106.26, 2675
2131.12, or 4505.10 of the Revised Code, to a transfer-on-death 2676
beneficiary or beneficiaries pursuant to section 2131.13 of the 2677
Revised Code, in connection with the creation of a security 2678
interest, or for a vehicle with a gross vehicle weight rating of 2679
more than sixteen thousand pounds. 2680

(D) When the transfer to the applicant was made in some other 2681
state or in interstate commerce, the clerk, except as provided in 2682
this section, shall refuse to issue any certificate of title 2683
unless the tax imposed by or pursuant to Chapter 5741. of the 2684
Revised Code based on the purchaser's county of residence has been 2685
paid as evidenced by a receipt issued by the tax commissioner, or 2686
unless the applicant submits with the application payment of the 2687
tax. Upon payment of the tax in accordance with division (E) of 2688
this section, the clerk shall issue a receipt prescribed by the 2689
registrar and agreed upon by the tax commissioner, showing payment 2690
of the tax. 2691

For receiving and disbursing ~~such~~ the taxes paid to the clerk 2692
by a resident of the clerk's county, the clerk may retain a 2693
poundage fee of one and one one-hundredth per cent. The clerk 2694
shall not retain a poundage fee from payments of taxes by persons 2695
who do not reside in the clerk's county. 2696

A clerk, however, may retain from the taxes paid to the clerk 2697
an amount equal to the poundage fees associated with certificates 2698
of title issued by other clerks of courts of common pleas to 2699
applicants who reside in the first clerk's county. The registrar, 2700
in consultation with the tax commissioner and the clerks of the 2701
courts of common pleas, shall develop a report from the automated 2702
title processing system that informs each clerk of the amount of 2703

the poundage fees that the clerk is permitted to retain from those 2704
taxes because of certificates of title issued by the clerks of 2705
other counties to applicants who reside in the first clerk's 2706
county. 2707

When the vendor is not regularly engaged in the business of 2708
selling motor vehicles, the vendor shall not be required to 2709
purchase a vendor's license or make reports concerning those 2710
sales. 2711

(E) The clerk shall accept any payment of a tax in cash, or 2712
by cashier's check, certified check, draft, money order, or teller 2713
check issued by any insured financial institution payable to the 2714
clerk and submitted with an application for a certificate of title 2715
under division (B) or (D) of this section. The clerk also may 2716
accept payment of the tax by corporate, business, or personal 2717
check, credit card, electronic transfer or wire transfer, debit 2718
card, or any other accepted form of payment made payable to the 2719
clerk. The clerk may require bonds, guarantees, or letters of 2720
credit to ensure the collection of corporate, business, or 2721
personal checks. Any service fee charged by a third party to a 2722
clerk for the use of any form of payment may be paid by the clerk 2723
from the certificate of title administration fund created in 2724
section 325.33 of the Revised Code, or may be assessed by the 2725
clerk upon the applicant as an additional fee. Upon collection, 2726
the additional fees shall be paid by the clerk into that 2727
certificate of title administration fund. 2728

The clerk shall make a good faith effort to collect any 2729
payment of taxes due but not made because the payment was returned 2730
or dishonored, but the clerk is not personally liable for the 2731
payment of uncollected taxes or uncollected fees. The clerk shall 2732
notify the tax commissioner of any such payment of taxes that is 2733
due but not made and shall furnish the information to the 2734
commissioner that the commissioner requires. The clerk shall 2735

deduct the amount of taxes due but not paid from the clerk's 2736
periodic remittance of tax payments, in accordance with procedures 2737
agreed upon by the tax commissioner. The commissioner may collect 2738
taxes due by assessment in the manner provided in section 5739.13 2739
of the Revised Code. 2740

Any person who presents payment that is returned or 2741
dishonored for any reason is liable to the clerk for payment of a 2742
penalty over and above the amount of the taxes due. The clerk 2743
shall determine the amount of the penalty, and the penalty shall 2744
be no greater than that amount necessary to compensate the clerk 2745
for banking charges, legal fees, or other expenses incurred by the 2746
clerk in collecting the returned or dishonored payment. The 2747
remedies and procedures provided in this section are in addition 2748
to any other available civil or criminal remedies. Subsequently 2749
collected penalties, poundage fees, and title fees, less any title 2750
fee due the state, from returned or dishonored payments collected 2751
by the clerk shall be paid into the certificate of title 2752
administration fund. Subsequently collected taxes, less poundage 2753
fees, shall be sent by the clerk to the treasurer of state at the 2754
next scheduled periodic remittance of tax payments, with 2755
information as the commissioner may require. The clerk may abate 2756
all or any part of any penalty assessed under this division. 2757

(F) In the following cases, the clerk shall accept for filing 2758
an application and shall issue a certificate of title without 2759
requiring payment or evidence of payment of the tax: 2760

(1) When the purchaser is this state or any of its political 2761
subdivisions, a church, or an organization whose purchases are 2762
exempted by section 5739.02 of the Revised Code; 2763

(2) When the transaction in this state is not a retail sale 2764
as defined by section 5739.01 of the Revised Code; 2765

(3) When the purchase is outside this state or in interstate 2766

commerce and the purpose of the purchaser is not to use, store, or
consume within the meaning of section 5741.01 of the Revised Code; 2767
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(4) When the purchaser is the federal government; 2769

(5) When the motor vehicle was purchased outside this state 2770
for use outside this state; 2771

(6) When the motor vehicle is purchased by a nonresident of 2772
this state for immediate removal from this state, and will be 2773
permanently titled and registered in another state, as provided by 2774
division (B)(23) of section 5739.02 of the Revised Code, and upon 2775
presentation of a copy of the affidavit provided by that section, 2776
and a copy of the exemption certificate provided by section 2777
5739.03 of the Revised Code. 2778

The clerk shall forward all payments of taxes, less poundage 2779
fees, to the treasurer of state in a manner to be prescribed by 2780
the tax commissioner and shall furnish information to the 2781
commissioner as the commissioner requires. 2782

(G) An application, as prescribed by the registrar and agreed 2783
to by the tax commissioner, shall be filled out and sworn to by 2784
the buyer of a motor vehicle in a casual sale. The application 2785
shall contain the following notice in bold lettering: "WARNING TO 2786
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 2787
law to state the true selling price. A false statement is in 2788
violation of section 2921.13 of the Revised Code and is punishable 2789
by six months' imprisonment or a fine of up to one thousand 2790
dollars, or both. All transfers are audited by the department of 2791
taxation. The seller and buyer must provide any information 2792
requested by the department of taxation. The buyer may be assessed 2793
any additional tax found to be due." 2794

(H) For sales of manufactured homes or mobile homes occurring 2795
on or after January 1, 2000, the clerk shall accept for filing, 2796
pursuant to Chapter 5739. of the Revised Code, an application for 2797

a certificate of title for a manufactured home or mobile home 2798
without requiring payment of any tax pursuant to section 5739.02, 2799
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 2800
issued by the tax commissioner showing payment of the tax. For 2801
sales of manufactured homes or mobile homes occurring on or after 2802
January 1, 2000, the applicant shall pay to the clerk an 2803
additional fee of five dollars for each certificate of title 2804
issued by the clerk for a manufactured or mobile home pursuant to 2805
division (H) of section 4505.11 of the Revised Code and for each 2806
certificate of title issued upon transfer of ownership of the 2807
home. The clerk shall credit the fee to the county certificate of 2808
title administration fund, and the fee shall be used to pay the 2809
expenses of archiving those certificates pursuant to division (A) 2810
of section 4505.08 and division (H)(3) of section 4505.11 of the 2811
Revised Code. The tax commissioner shall administer any tax on a 2812
manufactured or mobile home pursuant to Chapters 5739. and 5741. 2813
of the Revised Code. 2814

(I) Every clerk shall have the capability to transact by 2815
electronic means all procedures and transactions relating to the 2816
issuance of motor vehicle certificates of title that are described 2817
in the Revised Code as being accomplished by electronic means. 2818

Sec. 4505.10. (A) In the event of the transfer of ownership 2819
of a motor vehicle by operation of law, as upon inheritance, 2820
devise, bequest, order in bankruptcy, insolvency, replevin, or 2821
execution sale, a motor vehicle is sold to satisfy storage or 2822
repair charges, or repossession is had upon default in performance 2823
of the terms of a security agreement as provided in Chapter 1309. 2824
of the Revised Code and the secured party has notified the debtor 2825
as required by division (B) of section 1309.611 of the Revised 2826
Code, a clerk of a court of common pleas, upon the surrender of 2827
the prior certificate of title or the manufacturer's or importer's 2828

certificate, or, when that is not possible, upon presentation of 2829
satisfactory proof to the clerk of ownership and rights of 2830
possession to the motor vehicle, and upon payment of the fee 2831
prescribed in section 4505.09 of the Revised Code and presentation 2832
of an application for certificate of title, may issue to the 2833
applicant a certificate of title to the motor vehicle. Only an 2834
affidavit by the person or agent of the person to whom possession 2835
of the motor vehicle has passed, setting forth the facts entitling 2836
the person to the possession and ownership, together with a copy 2837
of the journal entry, court order, or instrument upon which the 2838
claim of possession and ownership is founded, is satisfactory 2839
proof of ownership and right of possession. If the applicant 2840
cannot produce that proof of ownership, the applicant may apply 2841
directly to the registrar of motor vehicles and submit the 2842
evidence the applicant has, and the registrar, if the registrar 2843
finds the evidence sufficient, ~~then~~ may authorize a clerk to issue 2844
a certificate of title. If the registrar finds the evidence 2845
insufficient, the applicant may petition the court of common pleas 2846
for a court order ordering the clerk to issue a certificate of 2847
title. The court shall grant or deny the petition based on the 2848
sufficiency of the evidence presented to the court. If, from the 2849
records in the office of the clerk involved, there appears to be 2850
any lien on the motor vehicle, the certificate of title shall 2851
contain a statement of the lien unless the application is 2852
accompanied by proper evidence of its extinction. 2853

(B) A clerk shall transfer a decedent's interest in one or 2854
two automobiles to the surviving spouse of the decedent, as 2855
provided in section ~~2106.18~~ 2106.26 of the Revised Code, upon 2856
receipt of the title or titles. An affidavit executed by the 2857
surviving spouse shall be submitted to the clerk with the title or 2858
titles. The affidavit shall give the date of death of the 2859
decedent, shall state that each automobile for which the 2860
decedent's interest is to be so transferred is not disposed of by 2861

testamentary disposition, and shall provide an approximate value 2862
for each automobile selected to be transferred by the surviving 2863
spouse. The affidavit shall also contain a description ~~for~~ of each 2864
automobile for which the decedent's interest is to be so 2865
transferred. The transfer does not affect any liens upon any 2866
automobile for which the decedent's interest is so transferred. 2867

(C) Upon the death of one of the persons who have established 2868
joint ownership with right of survivorship under section 2131.12 2869
of the Revised Code in a motor vehicle, and upon presentation to a 2870
clerk of the title and the certificate of death of the decedent, 2871
the clerk shall transfer title to the motor vehicle to the 2872
survivor. The transfer does not affect any liens upon any motor 2873
vehicle so transferred. 2874

(D) Upon the death of the owner of a motor vehicle designated 2875
in beneficiary form under section 2131.13 of the Revised Code, 2876
upon application for a certificate of title by the 2877
transfer-on-death beneficiary or beneficiaries designated pursuant 2878
to that section, and upon presentation to the clerk of the 2879
certificate of title and the certificate of death of the decedent, 2880
the clerk shall transfer the motor vehicle and issue a certificate 2881
of title to the transfer-on-death beneficiary or beneficiaries. 2882
The transfer does not affect any liens upon the motor vehicle so 2883
transferred. 2884

Sec. 4549.41. As used in sections 4549.41 to 4549.51 of the 2885
Revised Code: 2886

(A) "Person" includes an individual, corporation, government, 2887
governmental subdivision or agency, business trust, estate, trust, 2888
partnership, association, or cooperative or any other legal 2889
entity, whether acting individually or by their agents, officers, 2890
employees, or representatives. 2891

(B) "Motor vehicle" means any vehicle driven or drawn by 2892

mechanical power for use on the public streets, roads, or highways. 2893
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(C) "Odometer" means an instrument for measuring and recording the total distance that a motor vehicle travels while in operation, including any cable, line, or other part necessary to make the instrument function properly. Odometer does not include any auxiliary odometer designed to be reset by the operator of a motor vehicle for the purpose of recording mileage on trips. 2895
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(D) "Transfer" means to change ownership of a motor vehicle by purchase, by gift, or, except as otherwise provided in this division, by any other means. A "transfer" does not include a change of ownership as a result of a bequest, under the laws of intestate succession, as a result of a surviving spouse's actions pursuant to section ~~2106.18~~ 2106.26 or 4505.10 of the Revised Code, as a result of the operation of section 2131.12 or 2131.13 of the Revised Code, or in connection with the creation of a security interest. 2901
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(E) "Transferor" means the person involved in a transfer, who transfers ownership of a motor vehicle. 2910
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(F) "Transferee" means the person involved in a transfer, to whom the ownership of a motor vehicle is transferred. 2912
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(G) "Service" means to repair or replace an odometer that is not properly functioning. 2914
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Sec. 5731.16. (A) For purposes of the tax levied by section 5731.02 of the Revised Code, the value of the taxable estate shall be determined by deducting from the value of the gross estate amounts for the following: 2916
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(1) Funeral expenses; 2920

(2) Administration expenses, excluding the value of any money or property set off and allowed under section ~~2106.13~~ 2106.23 of 2921
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the Revised Code, to the extent that ~~such~~ those expenses have been 2923
or will be actually paid; 2924

(3) Claims against the estate that are outstanding and unpaid 2925
as of the date of decedent's death; 2926

(4) Unpaid mortgages on, or any indebtedness in respect of, 2927
property if the value of the decedent's interest in the property, 2928
undiminished by the mortgage or indebtedness, is included in the 2929
value of the gross estate, as are allowable by the laws of this 2930
state. 2931

(B) There shall be deducted in determining the taxable estate 2932
amounts representing expenses incurred in administering property 2933
not subject to claims ~~which~~ that is included in the gross estate, 2934
to the same extent ~~such~~ those amounts would be allowable as a 2935
deduction under division (A) of this section if ~~such~~ that property 2936
were subject to claims and ~~such~~ those amounts are paid before the 2937
expiration of the period of limitations provided for in section 2938
5731.38 of the Revised Code. 2939

(C) The deduction allowed by this section in the case of 2940
claims against the estate, unpaid mortgages, or any indebtedness, 2941
when founded on a promise or agreement, is limited to the extent 2942
that they were contracted bona fide and for an adequate and full 2943
consideration in money or money's worth, except that in any case 2944
in which ~~any such~~ the claim is founded on a promise or agreement 2945
of the decedent to make a contribution or gift to or for the use 2946
of any donee described in section 5731.17 of the Revised Code for 2947
the purposes specified in that section, the deduction is not so 2948
limited, but is limited to the extent that it would be allowable 2949
as a deduction under section 5731.17 of the Revised Code if the 2950
promise or agreement constituted a bequest. 2951

(D) Any income taxes on income received after the death of 2952
the decedent, or property taxes not accrued before ~~his~~ the death 2953

of the decedent, or any estate, succession, legacy, or inheritance 2954
taxes, shall not be deductible under this section. 2955

Sec. 5731.37. (A) Taxes levied by this chapter shall be, 2956
until restricted, transferred, or discharged pursuant to this 2957
division, until paid, or unless division (A)(5)(b) of section 2958
5731.21 of the Revised Code applies to them, a lien upon all 2959
property subject to the taxes. This lien: 2960

(1) Is discharged, as to property applied to costs and 2961
expenses of administration, property constituting the allowance 2962
made to the surviving spouse, minor children, or surviving spouse 2963
and minor children of the decedent under section ~~2106.13~~ 2106.23 2964
of the Revised Code for their support, and all of the property of 2965
a decedent that is subject to inclusion in the gross estate and 2966
that has been disclosed to the tax commissioner by the time a 2967
certificate of discharge is issued; 2968

(2) Is transferred, to the extent of any such property sold 2969
by the executor, administrator, or trustee for the purpose of 2970
paying debts, administration expenses, or taxes of the estate, or 2971
for any purpose to a bona fide purchaser for an adequate and full 2972
consideration in money or money's worth, to the money or other 2973
property received from the purchaser. Knowledge that the property 2974
is being sold by a fiduciary and that it otherwise would be 2975
subject to the estate tax lien does not preclude the purchaser 2976
from being classified as a bona fide purchaser. 2977

(3) May be, by written authorization of the tax commissioner, 2978
restricted to all property that is subject to ~~such~~ those taxes, 2979
and not specifically released, transferred to other property on 2980
conditions acceptable to the tax commissioner, or fully 2981
discharged, each upon conditions, including payment of a 2982
reasonable fee, prescribed by rules adopted under section 5703.14 2983
of the Revised Code, when ~~he~~ the tax commissioner determines that 2984

any of these actions will not jeopardize the collection of the 2985
taxes; 2986

(4) Shall be restricted, transferred, or discharged, as 2987
authorized in division (A)(3) of this section, by the tax 2988
commissioner, upon order of the probate court after notice to the 2989
commissioner and any other person whose substantial rights may 2990
reasonably be affected by the lien and hearing on an application 2991
of the executor, administrator, trustee, or the owner of an 2992
interest in any property subject, or reasonably the object of a 2993
claim to be subject, to the lien, and proof that the collection of 2994
the taxes will not be jeopardized by the action, and that the tax 2995
commissioner failed to grant a reasonable request for the action 2996
within sixty days of ~~his~~ receipt of a written request. 2997

(B) The executor, administrator, trustee, or other person in 2998
possession of property, the transfer of which is subject to the 2999
taxes, or any transferee of the property, except a bona fide 3000
purchaser for an adequate and full consideration in money or 3001
money's worth, is personally liable for all the taxes to the 3002
extent that their collection is reduced by ~~his~~ the omission of the 3003
executor, administrator, trustee, or other person or of the 3004
transferee to perform a statutory duty, with interest as provided 3005
in section 5731.23 of the Revised Code, until they have been paid. 3006
An administrator, executor, or trustee of any property, the 3007
transfer of which is subject to the taxes shall deduct the taxes 3008
from the property, or collect them from any person entitled to the 3009
property. ~~He~~ The administrator, executor, or trustee shall not 3010
deliver or be compelled to deliver any property, the transfer of 3011
which is subject to the taxes, to any person, until the taxes on 3012
it have been collected, and on any other property of the same 3013
decendent that has been, or is to be, transferred to the person or 3014
~~his~~ the person's spouse or minor child. ~~He~~ The administrator, 3015
executor, or trustee may sell so much of the estate of the 3016

decedent as will enable ~~him~~ the administrator, executor, or trustee to pay the taxes in the same manner as for the payment of the debts of the decedent. Knowledge that the property is being sold by a fiduciary and that it otherwise would be subject to the estate tax lien does not preclude the purchaser from being classified as a bona fide purchaser.

(C) If an election is made, pursuant to division (B)(1)(b) or (c) of section 5731.011 of the Revised Code to have qualified farm property valued at its value for actual qualified use, an amount equivalent to the estate tax savings realized in the decedent's estate by ~~valuating~~ valuing the property at its value for its actual qualified use, instead of at its fair market value pursuant to division (B) of section 5731.01 of the Revised Code, shall be a lien in favor of this state on the property for four years after the decedent's death, unless it is earlier discharged. The tax commissioner may issue a certificate of subordination of any lien imposed by this division upon any part of the property subject to the lien, if the tax commissioner determines that the state will be adequately secured after the subordination.

Section 2. That existing sections 319.54, 1548.11, 1775.24, 2101.16, 2105.061, 2105.32, 2106.10, 2106.11, 2106.13, 2106.15, 2106.16, 2106.18, 2106.19, 2106.20, 2106.22, 2106.24, 2106.25, 2107.63, 2109.301, 2109.32, 2113.03, 2113.031, 2113.23, 2113.53, 2113.54, 2113.86, 2115.16, 2117.25, 2127.02, 2127.03, 2127.31, 2127.41, 2129.07, 2329.83, 4505.06, 4505.10, 4549.41, 5731.16, and 5731.37 and sections 2106.01, 2106.02, 2106.03, 2106.04, 2106.05, 2106.06, 2106.07, and 2106.08 of the Revised Code are hereby repealed.

Section 3. Sections 319.54, 1548.11, 1775.24, 2101.16, 2105.061, 2105.32, 2106.10, 2106.11, 2106.13, 2106.15, 2106.16, 2106.18, 2106.19, 2106.22, 2106.25, 2107.63, 2109.301, 2109.32,

2113.03, 2113.031, 2113.23, 2113.53, 2113.54, 2113.86, 2115.16, 3048
2117.25, 2127.02, 2127.03, 2127.31, 2127.41, 2129.07, 2329.83, 3049
4505.06, 4505.10, 4549.41, 5731.16, and 5731.37 of the Revised 3050
Code, as amended by this act; sections 2106.10 (2106.21), 2106.11 3051
(2106.22), 2106.13 (2106.23), 2106.15 (2106.24), 2106.16 3052
(2106.25), 2106.18 (2106.26), 2106.19 (2106.27), 2106.20 3053
(2106.31), 2106.22 (2106.32), 2106.24 (2106.36), and 2106.25 3054
(2106.37) of the Revised Code, as amended by this act, for the 3055
purpose of adopting new section numbers as indicated in 3056
parentheses; and new sections 2106.01, 2106.02, 2106.03, 2106.04, 3057
2106.05, 2106.06, 2106.07, 2106.08, 2106.10, 2106.11, and 2106.13 3058
and sections 2106.09, 2106.12, and 2106.14 of the Revised Code, as 3059
enacted by this act, shall apply to the estates of decedents who 3060
die on or after the effective date of this act. 3061