

# AN ACT

To amend sections 319.20, 1705.02, 5713.08, 5715.27, and 5815.36 and to enact section 5701.14 of the Revised Code to clarify and modify the law relating to disclaimers under the Ohio Trust Code, to provide that a limited liability company may be a nonprofit entity, and to make changes regarding certain tax exemptions.

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

SECTION 1. That sections 319.20, 1705.02, 5713.08, 5715.27, and 5815.36 be amended and section 5701.14 of the Revised Code be enacted to read as follows:

Sec. 319.20. After complying with sections 319.202, 315.251, and 319.203 of the Revised Code, and on application and presentation of title, with the affidavits required by law, or the proper order of a court, bearing the last known address of the grantee, or of any one of the grantees named in the title, and a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the grantor claims title, the county auditor shall transfer any land or town lot or part thereof, minerals therein, or mineral rights thereto, charged with taxes on the tax list, from the name in which it stands into the name of the owner, when rendered necessary by a conveyance, partition, devise, descent, or otherwise. If by reason of the conveyance or otherwise, a part only of a tract or lot, minerals therein, or mineral rights thereto, as charged in the tax list, is to be transferred, the auditor shall determine the tax value of the part of a tract or lot of real estate, minerals therein, or mineral rights thereto, so transferred, and the value of the remaining part compared with the value of the whole.

Whenever a part only of a tract or lot of real estate has been transferred by the auditor and the tract or lot bears unpaid taxes, penalties, interest, or special assessments, the unpaid taxes, penalties, interest, or special assessments shall immediately be apportioned, upon demand or request by the transferee or remaining owner, in the following manner:

(A) The auditor shall allocate to the part so transferred, and to the remaining part, amounts of any current or delinquent taxes, interest, or

penalties that have accrued against the parcel as a whole, proportionate to their respective values.

(B) The lien of taxes, penalties, interest, and special assessments, as levied against the original tract, shall extend to the part so transferred and the part remaining only to the extent of the amounts so allocated to the respective parts.

This section does not change the total amount of taxes, special assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Whenever the state acquires an entire parcel or a part only of a parcel of real property in fee simple, the county auditor, upon application of the grantor or property owner or the state, which application shall contain a description of the property as it appears on the tax list and the date of transfer of ownership, shall prepare an estimate of the taxes that are a lien on the property, but have not been determined, assessed, and levied for the year in which the property was acquired. The county auditor shall thereupon apportion the estimated taxes proportionately between the grantor and the state for the period of the lien year that each had or shall have had ownership or possession of the property, whichever is earlier. The county treasurer shall accept payment from the state for estimated taxes at the time that the real property is acquired. If the state has paid in full in the year in which the property is acquired that proportion of the estimated taxes that the tax commissioner determines are not subject to remission by the county auditor for such year under division ~~(E)~~(D) of section 5713.08 of the Revised Code, the estimated taxes paid shall be considered the tax liability on the exempted property for that year.

Section 319.42 of the Revised Code applies to the apportionment of special assessments.

Complaint against such values as determined by the auditor or the allocation of assessments by the certifying authority may be filed by the transferee or the remaining owner, and if filed, proceedings including appeals shall be had in the manner and within the time provided by sections 5717.01 to 5717.06 and 5715.19 to 5715.22 of the Revised Code, for complaints against valuation or assessment of real property.

The auditor shall endorse on the deed or other evidences of title presented to the auditor that the proper transfer of the real estate described in the deed has been made in the auditor's office or that it is not entered for taxation, and sign the auditor's name to the deed. The address of the grantee, or any one of the grantees, set forth in the deed or other evidences of title

shall be entered by the auditor on the transfer sheets and on the general tax list of real property prepared pursuant to section 319.28 of the Revised Code.

Sec. 1705.02. A limited liability company may be formed for any purpose or purposes for which individuals lawfully may associate themselves, including for any profit or nonprofit purpose, except that, if the Revised Code contains special provisions for the formation of any designated type of corporation other than a professional association, a limited liability company shall not be formed for the purpose or purposes for which that type of corporation may be formed. At the request or direction of the government of the United States or any agency of that government, a limited liability company may transact any lawful business in aid of the national defense or in the prosecution of any war in which the United States is engaged.

Sec. 5701.14. For purposes of Title LVII of the Revised Code:

(A) In order to determine a limited liability company's nonprofit status, an entity is operating with a nonprofit purpose under section 1705.02 of the Revised Code if that entity is organized other than for the pecuniary gain or profit of, and its net earnings or any part of its net earnings are not distributable to, its members, its directors, its officers, or other private persons, except that the payment of reasonable compensation for services rendered, payments and distributions in furtherance of its nonprofit purpose, and the distribution of assets on dissolution permitted by section 1702.49 of the Revised Code are not pecuniary gain or profit or distribution of net earnings. In no event shall payments and distributions in furtherance of an entity's nonprofit purpose deprive the entity of its nonprofit status as long as all of the members of that entity are operating with a nonprofit purpose.

(B) A single member limited liability company that operates with a nonprofit purpose, as described in division (A) of this section, shall be treated as part of the same legal entity as its nonprofit member, and all assets and liabilities of that single member limited liability company shall be considered to be that of the nonprofit member. Filings or applications for exemptions or other tax purposes may be made either by the single member limited liability company or its nonprofit member.

Sec. 5713.08. (A) The county auditor shall make a list of all real and personal property in the auditor's county, ~~including money, credits, and investments in bonds, stocks, or otherwise, which~~ that is exempted from taxation. Such list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which such exemption has been granted. It shall be corrected annually by adding

thereto the items of property which have been exempted during the year, and by striking therefrom the items which in the opinion of the auditor have lost their right of exemption and which have been reentered on the taxable list, but no property shall be struck from the exempt property list solely because the property has been conveyed to a single member limited liability company with a nonprofit purpose from its nonprofit member or because the property has been conveyed by a single member limited liability company with a nonprofit purpose to its nonprofit member. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax commissioner as is provided for in section 5715.27 of the Revised Code or without the consent of the housing officer under section 3735.67 of the Revised Code. ~~When any personal property or endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not necessary to obtain the commissioner's consent to the exemption of additional property or investments of the same kind belonging to the same institution, but such property shall appear on the abstract filed annually with the commissioner.~~ The commissioner may revise at any time the list in every county so that no property is improperly or illegally exempted from taxation. The auditor shall follow the orders of the commissioner given under this section. An abstract of such list shall be filed annually with the commissioner, on a form approved by the commissioner, and a copy thereof shall be kept on file in the office of each auditor for public inspection.

~~The commissioner shall not consider an~~ An application for exemption of property ~~unless the application has attached thereto~~ shall include a certificate executed by the county treasurer certifying one of the following:

(1) That all taxes, ~~assessments,~~ interest, and penalties levied and assessed against the property sought to be exempted have been paid in full ~~to~~ for all of the tax years preceding the date upon tax year for which the application for exemption is filed, except for such taxes, interest, and penalties that may be remitted under division ~~(B)~~(C) of this section;

(2) That the applicant has entered into a valid delinquent tax contract with the county treasurer pursuant to division (A) of section 323.31 of the Revised Code to pay all of the delinquent taxes, ~~assessments,~~ interest, and penalties charged against the property, except for such taxes, interest, and penalties that may be remitted under division ~~(B)~~(C) of this section. If the auditor receives notice under section 323.31 of the Revised Code that such a written delinquent tax contract has become void, the auditor shall strike such property from the list of exempted property and reenter such property on the taxable list. If property is removed from the exempt list because a written

delinquent tax contract has become void, current taxes shall first be extended against that property on the general tax list and duplicate of real and public utility property for the tax year in which the auditor receives the notice required by division (A) of section 323.31 of the Revised Code that the delinquent tax contract has become void or, if that notice is not timely made, for the tax year in which falls the latest date by which the treasurer is required by such section to give such notice. A county auditor shall not remove from any tax list and duplicate the amount of any unpaid delinquent taxes, assessments, interest, or penalties owed on property that is placed on the exempt list pursuant to this division.

(3) That a tax certificate has been issued under section 5721.32 or 5721.33 of the Revised Code with respect to the property that is the subject of the application, and the tax certificate is outstanding.

(B) If the treasurer's certificate is not included with the application or the certificate reflects unpaid taxes, penalties, and interest that may not be remitted, the tax commissioner shall notify the property owner of that fact, and the applicant shall be given sixty days from the date that notification was mailed in which to provide the tax commissioner with a corrected treasurer's certificate. If a corrected treasurer's certificate is not received within the time permitted, the tax commissioner does not have authority to consider the tax exemption application.

(C) Any taxes, interest, and penalties which have become a lien after the property was first used for the exempt purpose, but in no case prior to the date of acquisition of the title to the property by the applicant, may be remitted by the commissioner, except as is provided in division (A) of section 5713.081 of the Revised Code.

~~(D)~~ Real property acquired by the state in fee simple is exempt from taxation from the date of acquisition of title or date of possession, whichever is the earlier date, provided that all taxes, interest, and penalties as provided in the apportionment provisions of section 319.20 of the Revised Code have been paid to the date of acquisition of title or date of possession by the state, whichever is earlier. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the year in which the property is acquired, shall be remitted by the county auditor for the balance of the year from date of acquisition of title or date of possession, whichever is earlier. This section shall not be construed to authorize the exemption of such property from taxation or the remission of taxes, interest, and penalties thereon until all private use has terminated.

Sec. 5715.27. (A) Except as provided in section 3735.67 of the Revised Code, the owner, a vendee in possession under a purchase agreement or a

land contract, the beneficiary of a trust, or a lessee for an initial term of not less than thirty years of any property may file an application with the tax commissioner, on forms prescribed by the commissioner, requesting that such property be exempted from taxation and that taxes, interest, and penalties be remitted as provided in division ~~(B)~~(C) of section 5713.08 of the Revised Code.

(B) The board of education of any school district may request the tax commissioner to provide it with notification of applications for exemption from taxation for property located within that district. If so requested, the commissioner shall send to the board ~~for the quarters ending on the last day of March, June, September, and December of each year,~~ on a monthly basis reports that contain sufficient information to enable the board to identify each property that is the subject of an exemption application, including, but not limited to, the name of the property owner or applicant, the address of the property, and the auditor's parcel number. The commissioner shall mail the reports ~~on or about~~ by the fifteenth day of the month following the end of the ~~quarter~~ month in which the commissioner receives the applications for exemption.

(C) A board of education that has requested notification under division (B) of this section may, with respect to any application for exemption of property located in the district and included in the commissioner's most recent report provided under that division, file a statement with the commissioner and with the applicant indicating its intent to submit evidence and participate in any hearing on the application. The statements shall be filed prior to the first day of the third month following the end of the ~~quarter~~ month in which that application was docketed by the commissioner. A statement filed in compliance with this division entitles the district to submit evidence and to participate in any hearing on the property and makes the district a party for purposes of sections 5717.02 to 5717.04 of the Revised Code in any appeal of the commissioner's decision to the board of tax appeals.

(D) The commissioner shall not hold a hearing on or grant or deny an application for exemption of property in a school district whose board of education has requested notification under division (B) of this section until the end of the period within which the board may submit a statement with respect to that application under division (C) of this section. The commissioner may act upon an application at any time prior to that date upon receipt of a written waiver from each such board of education, or, in the case of exemptions authorized by section 725.02, 1728.10, 5709.40, 5709.41, 5709.411, 5709.62, ~~or~~ 5709.63, 5709.632, 5709.73, 5709.78,

5709.84, or 5709.88 of the Revised Code, upon the request of the property owner. Failure of a board of education to receive the report required in division (B) of this section shall not void an action of the commissioner with respect to any application. The commissioner may extend the time for filing a statement under division (C) of this section.

(E) A complaint may also be filed with the commissioner by any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision against the continued exemption of any property granted exemption by the commissioner under this section.

(F) An application for exemption and a complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which exemption is requested or for which the liability of the property to taxation in that year is requested. The commissioner shall consider such application or complaint in accordance with procedures established by the commissioner, determine whether the property is subject to taxation or exempt therefrom, and certify the commissioner's findings to the auditor, who shall correct the tax list and duplicate accordingly. If a tax certificate has been sold under section 5721.32 or 5721.33 of the Revised Code with respect to property for which an exemption has been requested, the tax commissioner shall also certify the findings to the county treasurer of the county in which the property is located.

(G) Applications and complaints, and documents of any kind related to applications and complaints, filed with the tax commissioner under this section, are public records within the meaning of section 149.43 of the Revised Code.

(H) If the commissioner determines that the use of property or other facts relevant to the taxability of property that is the subject of an application for exemption or a complaint under this section has changed while the application or complaint was pending, the commissioner may make the determination under division (F) of this section separately for each tax year beginning with the year in which the application or complaint was filed or the year for which remission of taxes under division ~~(B)~~(C) of section 5713.08 of the Revised Code was requested, and including each subsequent tax year during which the application or complaint is pending before the commissioner.

Sec. 5815.36. (A) As used in this section:

(1) "Disclaimant" means any person, any guardian or personal representative of a person or estate of a person, or any attorney-in-fact or agent of a person having a general or specific authority to act granted in a

written instrument, who is any of the following:

(a) With respect to testamentary instruments and intestate succession, an heir, next of kin, devisee, legatee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entirety, surviving tenant of a tenancy with a right of survivorship, beneficiary under a testamentary instrument, or person designated to take pursuant to a power of appointment exercised by a testamentary instrument;

(b) With respect to nontestamentary instruments, a grantee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entirety, surviving tenant of a tenancy with a right of survivorship, beneficiary under a nontestamentary instrument, or person designated to take pursuant to a power of appointment exercised by a nontestamentary instrument;

(c) With respect to fiduciary rights, privileges, powers, and immunities, a fiduciary under a testamentary or nontestamentary instrument. ~~This Division (A)(1)(c) of this section does not authorize a fiduciary who disclaims fiduciary rights, privileges, powers, and immunities to disclaim~~ cause the rights of beneficiaries any beneficiary to be disclaimed unless the instrument creating the fiduciary relationship authorizes the fiduciary to make such a disclaimer.

(d) Any person entitled to take an interest in property upon the death of a person or upon the occurrence of any other event.

(2) "Personal representative" includes any fiduciary as defined in section 2109.01 of the Revised Code and any executor, trustee, guardian, or other person or entity having a fiduciary relationship with regard to any interest in property passing to the fiduciary, executor, trustee, guardian, or other person or entity by reason of a disclaimant's death.

(3) "Property" means all forms of property, real and personal, tangible and intangible.

(B)(1) A disclaimant, other than a fiduciary under an instrument who is not authorized by the instrument to disclaim the interest of a beneficiary, may disclaim, in whole or in part, the succession to any property by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.

(2) A disclaimant who is a fiduciary under an instrument may disclaim, in whole or in part, any right, power, privilege, or immunity, by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.

(3) The written instrument of disclaimer shall be signed and acknowledged by the disclaimant and shall contain all of the following:

(a) A reference to the donative instrument;

(b) A description of the property, part of property, or interest disclaimed, and of any fiduciary right, power, privilege, or immunity disclaimed;

(c) A declaration of the disclaimer and its extent.

(4) The guardian of the estate of a minor or an incompetent, or the personal representative of a deceased person, whether or not authorized by the instrument to disclaim, with the consent of the probate division of the court of common pleas, may disclaim, in whole or in part, the succession to any property, or interest in property, that the ward, if an adult and competent, or the deceased, if living, might have disclaimed. The guardian or personal representative, or any interested person may file an application with the probate division of the court of common pleas that has jurisdiction of the estate, asking that the court order the guardian or personal representative to execute and deliver, file, or record the disclaimer on behalf of the ward ~~or~~ estate, or deceased person. The court shall order the guardian or personal representative to execute and deliver, file, or record the disclaimer if the court finds, upon hearing after notice to interested parties and such other persons as the court shall direct, that:

(a) It is in the best interests of those interested in the estate of the person and of those who will take the disclaimed interest;

(b) It would not materially, adversely affect the minor or incompetent, or the beneficiaries of the estate of the decedent, taking into consideration other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the minor or incompetent or the beneficiaries of the estate of the decedent.

A written instrument of disclaimer ordered by the court under this division shall be executed and be delivered, filed, or recorded within the time and in the manner in which the person could have disclaimed if the person were living, an adult, and competent.

(C) A partial disclaimer of property that is subject to a burdensome interest created by the donative instrument is not effective unless the disclaimed property constitutes a gift that is separate and distinct from undisclaimed gifts.

(D) The disclaimant shall deliver, file, or record the disclaimer, or cause the same to be done, ~~not later than nine months~~ prior to accepting any benefits of the disclaimed interest and at any time after the latest of the following dates:

(1) The effective date of the donative instrument if both the taker and the taker's interest in the property are finally ascertained on that date;

(2) The date of the occurrence of the event upon which both the taker and the taker's interest in the property become finally ascertainable;

(3) The date on which the disclaimant attains ~~twenty-one~~ eighteen years of age or is no longer an incompetent, without tendering or repaying any benefit received while the disclaimant was under ~~twenty-one~~ eighteen years of age or an incompetent, and even if a guardian of a minor or incompetent had filed an application pursuant to division (B)(4) of this section and the probate division of the court of common pleas involved did not consent to the guardian executing a disclaimer.

(E) No disclaimer instrument is effective under this section if either of the following applies under the terms of the disclaimer instrument:

(1) The disclaimant has power to revoke the disclaimer.

(2) The disclaimant may transfer, or direct to be transferred, to self the entire legal and equitable ownership of the property subject to the disclaimer instrument.

(F)(1) Subject to division (F)(2) of this section, if the interest disclaimed is created by a nontestamentary instrument, the disclaimer instrument shall be delivered personally or by certified mail to the trustee or other person who has legal title to, or possession of, the property disclaimed.

(2) If the interest disclaimed is created by a testamentary instrument, by intestate succession, by a transfer on death deed pursuant to section 5302.22 of the Revised Code, or by a certificate of title to a motor vehicle, watercraft, or outboard motor that evidences ownership of the motor vehicle, watercraft, or outboard motor that is transferable on death pursuant to section 2131.13 of the Revised Code, the disclaimer instrument shall be filed in the probate division of the court of common pleas in the county in which proceedings for the administration of the decedent's estate have been commenced, and an executed copy of the disclaimer instrument shall be delivered personally or by certified mail to the personal representative of the decedent's estate.

(3) If no proceedings for the administration of the decedent's estate have been commenced, the disclaimer instrument shall be filed in the probate division of the court of common pleas in the county in which proceedings for the administration of the decedent's estate might be commenced according to law. The disclaimer instrument shall be filed and indexed, and fees charged, in the same manner as provided by law for an application to be appointed as personal representative to administer the decedent's estate. The disclaimer is effective whether or not proceedings thereafter are commenced to administer the decedent's estate. If proceedings thereafter are commenced for the administration of the decedent's estate, they shall be filed under, or

consolidated with, the case number assigned to the disclaimer instrument.

(4) If an interest in real estate is disclaimed, an executed copy of the disclaimer instrument also shall be recorded in the office of the recorder of the county in which the real estate is located. The disclaimer instrument shall include a description of the real estate with sufficient certainty to identify it, and shall contain a reference to the record of the instrument that created the interest disclaimed. If title to the real estate is registered under Chapters 5309. and 5310. of the Revised Code, the disclaimer interest shall be entered as a memorial on the last certificate of title. A spouse of a disclaimant has no dower or other interest in the real estate disclaimed.

(G) ~~Unless the~~ If a donative instrument expressly provides that, if there is for the distribution of property, part of property, or interest in property if there is a disclaimer, there shall not be any acceleration of remainders or other interests, the property, part of property, or interest disclaimed shall be distributed or disposed of, and accelerated or not accelerated, in accordance with the donative instrument. In the absence of express provisions to the contrary in the donative instrument, the property, part of property, or interest in property disclaimed, and any future interest that is to take effect in possession or enjoyment at or after the termination of the interest disclaimed, shall descend, be distributed, or otherwise be disposed of, and shall be accelerated, in the following manner:

(1) If intestate or testate succession is disclaimed, as if the disclaimant had predeceased the decedent;

(2) If the disclaimant is one designated to take pursuant to a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the donee of the power;

(3) If the donative instrument is a nontestamentary instrument, as if the disclaimant had died before the effective date of the nontestamentary instrument;

(4) If the disclaimer is of a fiduciary right, power, privilege, or immunity, as if the right, power, privilege, or immunity was never in the donative instrument.

(H) A disclaimer pursuant to this section is effective as of, and relates back for all purposes to, the date upon which the taker and the taker's interest have been finally ascertained.

(I) A disclaimant who has a present and future interest in property, and disclaims the disclaimant's present interest in whole or in part, is considered to have disclaimed the disclaimant's future interest to the same extent, unless a contrary intention appears in the disclaimer instrument or the donative instrument. A disclaimant is not precluded from receiving, as an alternative

taker, a beneficial interest in the property disclaimed, unless a contrary intention appears in the disclaimer instrument or in the donative instrument.

(J) The disclaimant's right to disclaim under this section is barred if, ~~before the expiration of the period within which the disclaimant may disclaim the interest,~~ the disclaimant does any of the following:

(1) Assigns, conveys, encumbers, pledges, or transfers, or contracts to assign, convey, encumber, pledge, or transfer, the property or any interest in it;

(2) Waives in writing the disclaimant's right to disclaim and executes and delivers, files, or records the waiver in the manner provided in this section for a disclaimer instrument;

(3) Accepts the property or an interest in it;

(4) Permits or suffers a sale or other disposition of the property pursuant to judicial action against the disclaimant.

(K) ~~A~~ Neither a fiduciary's application for appointment or assumption of duties as a fiduciary does not waive nor a beneficiary's application for appointment as a personal representative or fiduciary waives or bars the disclaimant's right to disclaim a right, power, privilege, or immunity as a personal representative or fiduciary or the beneficiary's right to disclaim property.

(L) The right to disclaim under this section exists irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

(M) A disclaimer instrument or written waiver of the right to disclaim that has been executed and delivered, filed, or recorded as required by this section is final and binding upon all persons.

(N) The right to disclaim and the procedures for disclaimer established by this section are in addition to, and do not exclude or abridge, any other rights or procedures ~~existing~~ that exist or formerly existed under any other section of the Revised Code or at common law to assign, convey, release, refuse to accept, renounce, waive, or disclaim property.

(O)(1) No person is liable for distributing or disposing of property in a manner inconsistent with the terms of a valid disclaimer if the distribution or disposition is otherwise proper and the person has no actual knowledge of the disclaimer.

(2) No person is liable for distributing or disposing of property in reliance upon the terms of a disclaimer that is invalid because the right of disclaimer has been waived or barred if the distribution or disposition is otherwise proper and the person has no actual knowledge of the facts that constitute a waiver or bar to the right to disclaim.

(P)(1) A disclaimant may disclaim pursuant to this section any interest in property that is in existence on September 27, 1976, if either the interest in the property or the taker of the interest in the property is not finally ascertained on that date.

(2) No disclaimer executed pursuant to this section destroys or diminishes an interest in property that exists on September 27, 1976, in any person other than the disclaimant.

(Q) This section may be applied separately to different interests or powers created in the disclaimant by the same testamentary or nontestamentary instrument.

SECTION 2. That existing sections 319.20, 1705.02, 5713.08, 5715.27, and 5815.36 of the Revised Code are hereby repealed.

SECTION 3. Sections 319.20, 5713.08, and 5715.27 of the Revised Code, as amended by this act, are remedial in nature and apply to the tax years at issue in any application for exemption from taxation pending before the Tax Commissioner, the Board of Tax Appeals, the Court of Appeals, or the Supreme Court on the effective date of this act and to that property that is the subject of any application.

SECTION 4. The amendments to divisions (A), (B), (G), (K), (N), and (Q) of section 5815.36 of the Revised Code contained in Section 1 of this act are intended to clarify and be declaratory of the law as it existed prior to the enactment of this act and shall be construed accordingly.

SECTION 5. The General Assembly recognizes that section 2518 of the Internal Revenue Code defines a qualified disclaimer, in part, as a written refusal by a person to accept an interest in property that is received by the transferor of the interest within nine months after the later of the date on which the transfer creating the interest is made and the date on which the person attains twenty-one years of age. By amending division (D) of section 5815.36 of the Revised Code to eliminate a reference to the nine-month period, the General Assembly intends to create the possibility that some disclaimers governed by the law of this state will be qualified under section 2518 of the Internal Revenue Code and some will not be qualified under that section.

SECTION 6. Section 1705.02 of the Revised Code, as amended by this act, and section 5701.14 of the Revised Code, as enacted by this act, apply to limited liability companies that were in existence prior to the effective date of this act and that assert to be nonprofit limited liability companies.

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

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

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

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

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*Governor.*

Sub. H. B. No. 160

127th G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

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