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**Representative Wagner**

**Cosponsors: Representatives McGregor, J., Wagoner, Gibbs, Combs, Stebelton, Collier, Huffman, Blessing, Bulp, Latta, Schindel, Hagan, J., Wolpert, Adams, Aslanides, Bacon, Barrett, Batchelder, Boyd, Brown, Budish, Carmichael, Chandler, Coley, Core, Daniels, DeBose, Dolan, Domenick, Dyer, Evans, Fende, Fessler, Flowers, Goodwin, Goyal, Harwood, Healy, Hite, Hottinger, Hughes, Jones, Letson, Luckie, Lundy, Mandel, Miller, Oelslager, Otterman, Patton, Raussen, Reinhard, Sayre, Schneider, Seitz, Setzer, Szollosi, Uecker, Wachtmann, Webster, Williams, S., Yuko, Zehringer**  
**Senators Amstutz, Harris, Schaffer**

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**A B I L L**

To amend sections 718.01, 718.02, and 4763.16 of the Revised Code to authorize municipalities to allow self-employed taxpayers to take a municipal income tax deduction for amounts paid for medical care insurance, to authorize municipalities to allow individuals to deduct amounts paid into health savings accounts, to limit the entities that may apply for Real Estate Appraiser Recovery Fund payments, to allow certain property owners whose property is located in certain conservancy districts to have the Supreme Court review denials of their exceptions to an assessment, to establish a moratorium on the levying and collection of assessments by certain conservancy districts, to provide for the extension of the enhanced motor

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vehicle inspection and maintenance program, and to 16  
declare an emergency. 17

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

**Section 1.** That sections 718.01, 718.02, and 4763.16 of the 18  
Revised Code be amended to read as follows: 19

**Sec. 718.01.** (A) As used in this chapter: 20

(1) "Adjusted federal taxable income" means a C corporation's 21  
federal taxable income before net operating losses and special 22  
deductions as determined under the Internal Revenue Code, adjusted 23  
as follows: 24

(a) Deduct intangible income to the extent included in 25  
federal taxable income. The deduction shall be allowed regardless 26  
of whether the intangible income relates to assets used in a trade 27  
or business or assets held for the production of income. 28

(b) Add an amount equal to five per cent of intangible income 29  
deducted under division (A)(1)(a) of this section, but excluding 30  
that portion of intangible income directly related to the sale, 31  
exchange, or other disposition of property described in section 32  
1221 of the Internal Revenue Code; 33

(c) Add any losses allowed as a deduction in the computation 34  
of federal taxable income if the losses directly relate to the 35  
sale, exchange, or other disposition of an asset described in 36  
section 1221 or 1231 of the Internal Revenue Code; 37

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 38  
section, deduct income and gain included in federal taxable income 39  
to the extent the income and gain directly relate to the sale, 40  
exchange, or other disposition of an asset described in section 41  
1221 or 1231 of the Internal Revenue Code; 42

(ii) Division (A)(1)(d)(i) of this section does not apply to 43  
the extent the income or gain is income or gain described in 44  
section 1245 or 1250 of the Internal Revenue Code. 45

(e) Add taxes on or measured by net income allowed as a 46  
deduction in the computation of federal taxable income; 47

(f) In the case of a real estate investment trust and 48  
regulated investment company, add all amounts with respect to 49  
dividends to, distributions to, or amounts set aside for or 50  
credited to the benefit of investors and allowed as a deduction in 51  
the computation of federal taxable income; 52

(g) If the taxpayer is not a C corporation and is not an 53  
individual, the taxpayer shall compute adjusted federal taxable 54  
income as if the taxpayer were a C corporation, except: 55

(i) Guaranteed payments and other similar amounts paid or 56  
accrued to a partner, former partner, member, or former member 57  
shall not be allowed as a deductible expense; and 58

(ii) Amounts paid or accrued to a qualified self-employed 59  
retirement plan with respect to an owner or owner-employee of the 60  
taxpayer, amounts paid or accrued to or for health insurance for 61  
an owner or owner-employee, and amounts paid or accrued to or for 62  
life insurance for an owner or owner-employee shall not be allowed 63  
as a deduction. 64

Nothing in division (A)(1) of this section shall be construed 65  
as allowing the taxpayer to add or deduct any amount more than 66  
once or shall be construed as allowing any taxpayer to deduct any 67  
amount paid to or accrued for purposes of federal self-employment 68  
tax. 69

Nothing in this chapter shall be construed as limiting or 70  
removing the ability of any municipal corporation to administer, 71  
audit, and enforce the provisions of its municipal income tax. 72

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.	73 74
(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.	75 76
(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.	77 78
(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.	79 80 81 82 83 84 85 86 87 88 89
(6) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.	90 91 92
(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, <del>other than amounts described in division (F) of this section,</del> required to be reported on schedule C, schedule E, or schedule F, <u>other than any amount allowed as a deduction under division (E)(2) or (3) of this section or amounts described in division (H) of this section.</u>	93 94 95 96 97 98 99 100
(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. Except as provided in division <del>(J)</del> <u>(L)</u> of this section, "taxpayer" does not include any person	101 102 103

that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;

(b) A municipal corporation acting as the agent of another municipal corporation; and

(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.

(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(B) No municipal corporation shall tax income at other than a uniform rate.

(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?"

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D)(1) Except as otherwise provided in ~~division (E) or (F) of~~ this section, no municipal corporation shall exempt from a tax on income compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

(2)(a) For taxable years beginning on or after January 1, 2004, no municipal corporation shall tax the net profit from a business or profession using any base other than the taxpayer's adjusted federal taxable income.

(b) Division (D)(2)(a) of this section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code or to the net profit from a sole proprietorship.

(E)(1) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

~~(1)~~(a) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

~~(2)~~(b) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who is an individual to deduct, in computing the taxpayer's municipal income tax liability, an amount equal to the aggregate amount the taxpayer paid in cash during the taxable year to a health savings account of the taxpayer, to the extent the taxpayer is entitled to deduct that amount on internal revenue service form 1040.

(3) The legislative authority of a municipal corporation may adopt an ordinance or resolution that allows a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship to deduct from that net profit the amount that the taxpayer paid during the taxable year for medical care insurance premiums for the taxpayer, the taxpayer's spouse, and dependents as defined in section 5747.01 of the Revised Code. The deduction shall be allowed to the same extent the taxpayer is entitled to deduct the premiums on internal revenue service form 1040. The deduction allowed under this division shall be net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received by the taxpayer during the taxable year.

(F) If an individual's taxable income includes income against

which the taxpayer has taken a deduction for federal income tax 196  
purposes as reportable on the taxpayer's form 2106, and against 197  
which a like deduction has not been allowed by the municipal 198  
corporation, the municipal corporation shall deduct from the 199  
taxpayer's taxable income an amount equal to the deduction shown 200  
on such form allowable against such income, to the extent not 201  
otherwise so allowed as a deduction by the municipal corporation. 202

(G)(1) In the case of a taxpayer who has a net profit from a 203  
business or profession that is operated as a sole proprietorship, 204  
no municipal corporation may tax or use as the base for 205  
determining the amount of the net profit that shall be considered 206  
as having a taxable situs in the municipal corporation, an amount 207  
other than the net profit required to be reported by the taxpayer 208  
on schedule C or F from such sole proprietorship for the taxable 209  
year. 210

(2) In the case of a taxpayer who has a net profit from 211  
rental activity required to be reported on schedule E, no 212  
municipal corporation may tax or use as the base for determining 213  
the amount of the net profit that shall be considered as having a 214  
taxable situs in the municipal corporation, an amount other than 215  
the net profit from rental activities required to be reported by 216  
the taxpayer on schedule E for the taxable year. 217

~~(F)~~(H) A municipal corporation shall not tax any of the 218  
following: 219

(1) The military pay or allowances of members of the armed 220  
forces of the United States and of members of their reserve 221  
components, including the Ohio national guard; 222

(2) The income of religious, fraternal, charitable, 223  
scientific, literary, or educational institutions to the extent 224  
that such income is derived from tax-exempt real estate, 225  
tax-exempt tangible or intangible property, or tax-exempt 226

activities;	227
(3) Except as otherwise provided in division <del>(G)</del> <u>(I)</u> of this section, intangible income;	228 229
(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.	230 231 232 233 234 235 236
(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;	237 238 239 240 241 242 243 244 245
(6) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Revised Code:	246 247 248 249
(a) Beginning January 1, 2002, the income of an electric company or combined company;	250 251
(b) Beginning January 1, 2004, the income of a telephone company.	252 253
As used in division <del>(F)</del> <u>(H)</u> (6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.	254 255 256

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;	257 258
(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;	259 260 261
(9)(a) Except as provided in division <del>(F)</del> (H)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.	262 263 264 265 266 267 268
(b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before March <del>11, 2004</del> 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.	269 270 271 272 273 274 275
(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of continuing to tax such shares after that date vote in favor of that question at an	276 277 278 279 280 281 282 283 284 285 286 287 288

election held November 2, 2004. If a majority of those electors 289  
vote in favor of the question, the municipal corporation may 290  
continue after December 31, 2004, to impose the tax on such 291  
distributive shares only to the extent such shares would be so 292  
allocated or apportioned to this state. 293

(d) For the purposes of division (D) of section 718.14 of the 294  
Revised Code, a municipal corporation shall be deemed to have 295  
elected to tax S corporation shareholders' distributive shares of 296  
net profits of the S corporation in the hands of the shareholders 297  
if a majority of the electors of a municipal corporation vote in 298  
favor of a question at an election held under division 299  
~~(F)~~(H)(9)(b) or (c) of this section. The municipal corporation 300  
shall specify by ordinance or rule that the tax applies to the 301  
distributive share of a shareholder of an S corporation in the 302  
hands of the shareholder of the S corporation. 303

(10) Employee compensation that is not "qualifying wages" as 304  
defined in section 718.03 of the Revised Code; 305

(11) Beginning August 1, 2007, compensation paid to a person 306  
employed within the boundaries of a United States air force base 307  
under the jurisdiction of the United States air force that is used 308  
for the housing of members of the United States air force and is a 309  
center for air force operations, unless the person is subject to 310  
taxation because of residence or domicile. If the compensation is 311  
subject to taxation because of residence or domicile, municipal 312  
income tax shall be payable only to the municipal corporation of 313  
residence or domicile. 314

~~(G)~~(I) Any municipal corporation that taxes any type of 315  
intangible income on March 29, 1988, pursuant to Section 3 of 316  
Amended Substitute Senate Bill No. 238 of the 116th general 317  
assembly, may continue to tax that type of income after 1988 if a 318  
majority of the electors of the municipal corporation voting on 319  
the question of whether to permit the taxation of that type of 320

intangible income after 1988 vote in favor thereof at an election 321  
held on November 8, 1988. 322

~~(H)~~(J) Nothing in this section or section 718.02 of the 323  
Revised Code shall authorize the levy of any tax on income that a 324  
municipal corporation is not authorized to levy under existing 325  
laws or shall require a municipal corporation to allow a deduction 326  
from taxable income for losses incurred from a sole proprietorship 327  
or partnership. 328

~~(I)~~(K)(1) Nothing in this chapter prohibits a municipal 329  
corporation from allowing, by resolution or ordinance, a net 330  
operating loss carryforward. 331

(2) Nothing in this chapter requires a municipal corporation 332  
to allow a net operating loss carryforward. 333

~~(J)~~(L)(1) A single member limited liability company that is a 334  
disregarded entity for federal tax purposes may elect to be a 335  
separate taxpayer from its single member in all Ohio municipal 336  
corporations in which it either filed as a separate taxpayer or 337  
did not file for its taxable year ending in 2003, if all of the 338  
following conditions are met: 339

(a) The limited liability company's single member is also a 340  
limited liability company; 341

(b) The limited liability company and its single member were 342  
formed and doing business in one or more Ohio municipal 343  
corporations for at least five years before January 1, 2004; 344

(c) Not later than December 31, 2004, the limited liability 345  
company and its single member each make an election to be treated 346  
as a separate taxpayer under division ~~(J)~~(L) of this section; 347

(d) The limited liability company was not formed for the 348  
purpose of evading or reducing Ohio municipal corporation income 349  
tax liability of the limited liability company or its single 350

member; 351

(e) The Ohio municipal corporation that is the primary place 352  
of business of the sole member of the limited liability company 353  
consents to the election. 354

(2) For purposes of division ~~(J)~~(L)(1)(e) of this section, a 355  
municipal corporation is the primary place of business of a 356  
limited liability company if, for the limited liability company's 357  
taxable year ending in 2003, its income tax liability is greater 358  
in that municipal corporation than in any other municipal 359  
corporation in Ohio, and that tax liability to that municipal 360  
corporation for its taxable year ending in 2003 is at least four 361  
hundred thousand dollars. 362

**Sec. 718.02.** This section does not apply to taxpayers that 363  
are subject to and required to file reports under Chapter 5745. of 364  
the Revised Code. 365

(A) Except as otherwise provided in division (D) of this 366  
section, net profit from a business or profession conducted both 367  
within and without the boundaries of a municipal corporation shall 368  
be considered as having a taxable situs in such municipal 369  
corporation for purposes of municipal income taxation in the same 370  
proportion as the average ratio of the following: 371

(1) The average original cost of the real and tangible 372  
personal property owned or used by the taxpayer in the business or 373  
profession in such municipal corporation during the taxable period 374  
to the average original cost of all of the real and tangible 375  
personal property owned or used by the taxpayer in the business or 376  
profession during the same period, wherever situated. 377

As used in the preceding paragraph, real property shall 378  
include property rented or leased by the taxpayer and the value of 379  
such property shall be determined by multiplying the annual rental 380

thereon by eight; 381

(2) Wages, salaries, and other compensation paid during the 382  
taxable period to persons employed in the business or profession 383  
for services performed in such municipal corporation to wages, 384  
salaries, and other compensation paid during the same period to 385  
persons employed in the business or profession, wherever their 386  
services are performed, excluding compensation that is not taxable 387  
by the municipal corporation under section 718.011 of the Revised 388  
Code; 389

(3) Gross receipts of the business or profession from sales 390  
made and services performed during the taxable period in such 391  
municipal corporation to gross receipts of the business or 392  
profession during the same period from sales and services, 393  
wherever made or performed. 394

If the foregoing apportionment formula does not produce an 395  
equitable result, another basis may be substituted, under uniform 396  
regulations, so as to produce an equitable result. 397

(B) As used in division (A) of this section, "sales made in a 398  
municipal corporation" mean: 399

(1) All sales of tangible personal property delivered within 400  
such municipal corporation regardless of where title passes if 401  
shipped or delivered from a stock of goods within such municipal 402  
corporation; 403

(2) All sales of tangible personal property delivered within 404  
such municipal corporation regardless of where title passes even 405  
though transported from a point outside such municipal corporation 406  
if the taxpayer is regularly engaged through its own employees in 407  
the solicitation or promotion of sales within such municipal 408  
corporation and the sales result from such solicitation or 409  
promotion; 410

(3) All sales of tangible personal property shipped from a 411

place within such municipal corporation to purchasers outside such 412  
municipal corporation regardless of where title passes if the 413  
taxpayer is not, through its own employees, regularly engaged in 414  
the solicitation or promotion of sales at the place where delivery 415  
is made. 416

(C) Except as otherwise provided in division (D) of this 417  
section, net profit from rental activity not constituting a 418  
business or profession shall be subject to tax only by the 419  
municipal corporation in which the property generating the net 420  
profit is located. 421

(D) This section does not apply to individuals who are 422  
residents of the municipal corporation and, except as otherwise 423  
provided in section 718.01 of the Revised Code, a municipal 424  
corporation may impose a tax on all income earned by residents of 425  
the municipal corporation to the extent allowed by the United 426  
States Constitution. 427

(E) If, in computing the taxpayer's adjusted federal taxable 428  
income, the taxpayer deducted any amount with respect to a stock 429  
option granted to an employee, and if the employee is not required 430  
to include in income any amount or any portion thereof because it 431  
is exempted from taxation under division ~~(F)~~(H)(10) of section 432  
718.01 of the Revised Code and division (A)(2)(d) of section 433  
718.03 of the Revised Code by a municipal corporation to which the 434  
taxpayer has apportioned a portion of its net profit, the taxpayer 435  
shall add the amount that is exempt from taxation to the 436  
taxpayer's net profit that was apportioned to that municipal 437  
corporation. In no case shall a taxpayer be required to add to its 438  
net profit that was apportioned to that municipal corporation any 439  
amount other than the amount upon which the employee would be 440  
required to pay tax were the amount related to the stock option 441  
not exempted from taxation. 442

This division applies solely for the purpose of making an 443

adjustment to the amount of a taxpayer's net profit that was 444  
apportioned to a municipal corporation under divisions (A) and (B) 445  
of this section. 446

**Sec. 4763.16.** (A) The real estate appraiser recovery fund is 447  
hereby created in the state treasury, to be administered by the 448  
superintendent of real estate. The treasurer of state shall credit 449  
to the fund amounts collected by the superintendent as prescribed 450  
in this section and interest earned on the assets of the fund. The 451  
superintendent shall ascertain the balance of the fund as of the 452  
first day of October of each year. If that balance is less than 453  
five hundred thousand dollars, the director of budget and 454  
management, upon the request of the superintendent, may transfer 455  
from the real estate appraiser operating fund to the real estate 456  
appraiser recovery fund a sum as will bring the real estate 457  
appraiser recovery fund to that amount. 458

(B) When any person, ~~except a bonding or insurance company or~~ 459  
~~any partnership, corporation, or association employing a person~~ 460  
~~licensed, registered, or certified under this chapter as part of~~ 461  
~~its usual or occasional operations,~~ obtains a final judgment in 462  
any court of competent jurisdiction against a certificate holder, 463  
registrant, or licensee, based upon conduct that is in violation 464  
of this chapter or the rules adopted under it, which conduct 465  
occurred on or after the date of their certification, 466  
registration, or licensure, and that is associated with an act or 467  
transaction of a certificate holder, registrant, or licensee 468  
specified ~~or comprehended~~ in this chapter, that person may file a 469  
verified complaint, as described in this division, in ~~any the~~ 470  
Franklin county court of common pleas for an order directing 471  
payment out of the real estate appraiser recovery fund of the 472  
portion of the judgment that remains unpaid and that represents 473  
the actual and direct loss of the person for the act or 474  
transaction upon which the underlying judgment was based, and 475

court costs, if awarded in the underlying judgment, provided that 476  
no person shall receive more than ten thousand dollars from the 477  
fund for any one judgment. A bonding or insurance company or any 478  
partnership, corporation, or association that uses any tool to 479  
develop a valuation of real property for purposes of a loan or 480  
that employs, retains, or engages as an independent contractor a 481  
person licensed, registered, or certified as a real estate 482  
appraiser in its usual or occasional operations may not seek an 483  
order directing, and is not eligible for, payment out of the fund. 484  
Punitive or exemplary damages are not recoverable from the fund. 485

The complaint shall specify the nature of the act or 486  
transaction upon which the underlying judgment was based, the 487  
activities of the applicant in pursuit of remedies available under 488  
law for the collection of judgments, and the amount of the fee 489  
paid by the applicant to the certificate holder, registrant, or 490  
licensee. The applicant shall attach to the complaint a copy of 491  
each pleading and order in the underlying court action. 492

The Franklin county court of common pleas shall order the 493  
superintendent to make payments out of the fund when the person 494  
seeking the order has shown all of the following: 495

(1) The person has obtained a judgment, as provided in this 496  
division; 497

(2) All appeals from the judgment have been exhausted and the 498  
person has given notice to the superintendent, as required by 499  
division (C) of this section; 500

(3) The person is not a spouse of the certificate holder, 501  
registrant, or licensee, or the personal representative of the 502  
spouse; 503

(4) The person has diligently pursued the person's remedies 504  
against all the certificate holders, registrants, licensees, and 505  
all other persons liable to the person in the transaction for 506

which the person seeks recovery from the fund; 507

(5) The person is making a complaint not more than one year 508  
after termination of all proceedings, including appeals, in 509  
connection with the judgment. 510

(C) A person who applies to a the Franklin county court of 511  
common pleas for an order directing payment out of the fund shall 512  
file notice of the complaint with the superintendent. The 513  
superintendent shall send notice to the affected certificate 514  
holder, registrant, or licensee, where possible. The 515  
superintendent may defend the action on behalf of the fund and 516  
shall have recourse to all appropriate means of defense and 517  
review, including examination of witnesses. The superintendent may 518  
move the court at any time to dismiss the complaint when it 519  
appears there are no triable issues and the complaint is without 520  
merit. The motion may be supported by affidavit of any person 521  
having knowledge of the facts and may be made on the basis that 522  
the complaint, including the judgment referred to in the 523  
complaint, does not form the basis for a meritorious recovery 524  
claim, ~~provided that the superintendent shall give written notice~~ 525  
~~to the applicant at least ten days before such motion.~~ The 526  
superintendent may, subject to court approval, compromise a claim 527  
based upon the complaint of an aggrieved party. The superintendent 528  
is not bound by any prior compromise or stipulation of the 529  
certificate holder, registrant, or licensee. Upon petition of the 530  
superintendent, the court may require all claimants and 531  
prospective claimants against one certificate holder, registrant, 532  
or licensee to be joined in one action, to the end that the 533  
respective rights of all such claimants to the fund may be 534  
equitably adjudicated and settled. 535

(D) If the superintendent pays from the fund any amount in 536  
settlement of a claim or toward satisfaction of a judgment against 537  
a certificate holder, registrant, or licensee, the certificate, 538

registration, or license of the certificate holder, registrant, or 539  
licensee automatically is suspended upon the date of payment from 540  
the fund. No certificate, registration, or license that has been 541  
suspended pursuant to this division shall be reinstated until the 542  
certificate holder, registrant, or licensee has repaid in full, 543  
plus interest per annum at the rate specified in division (A) of 544  
section 1343.03 of the Revised Code, the amount paid from the fund 545  
on the certificate holder's, registrant's, or licensee's account. 546  
A discharge in bankruptcy does not relieve a person from the 547  
suspension and requirements for reinstatement provided in this 548  
section. 549

(E) If, at any time, the money deposited in the fund is 550  
insufficient to satisfy any duly authorized claim or portion of a 551  
claim, the superintendent shall, when sufficient money has been 552  
deposited in the fund, satisfy the unpaid claims or portions, in 553  
the order that the claims or portions were originally filed, plus 554  
accumulated interest per annum at the rate specified in division 555  
(A) of section 1343.03 of the Revised Code. 556

(F) When, upon the order of the court, the superintendent has 557  
paid from the fund any sum to the judgment creditor, the 558  
superintendent is subrogated to all of the rights of the judgment 559  
creditor to the extent of the amount so paid, and the judgment 560  
creditor shall assign all of the judgment creditor's right, title, 561  
and interest in the judgment to the superintendent to the extent 562  
of the amount so paid. The superintendent shall deposit in the 563  
fund any amount and interest so recovered by the superintendent on 564  
the judgment. 565

(G) Nothing contained in this section shall limit the 566  
authority of the real estate appraiser board to take disciplinary 567  
action against a certificate holder, registrant, or licensee under 568  
other provisions of this chapter. The repayment in full of all 569  
obligations to the fund by a certificate holder, registrant, or 570

licensee does not nullify or modify the effect of any other 571  
disciplinary proceeding brought pursuant to this chapter, unless 572  
repayment is imposed as a condition in that proceeding. 573

(H) The superintendent shall collect from the fund a service 574  
fee in an amount equivalent to the interest rate specified in 575  
division (A) of section 1343.03 of the Revised Code multiplied by 576  
the annual interest earned on the assets of the fund, to defray 577  
the expenses incurred in the administration of the fund. 578

**Section 2.** That existing sections 718.01, 718.02, and 4763.16 579  
of the Revised Code are hereby repealed. 580

**Section 3.** The amendment by this act of sections 718.01 and 581  
718.02 of the Revised Code applies to taxable years beginning on 582  
or after January 1, 2008. 583

**Section 4.** Notwithstanding section 6101.34 of the Revised 584  
Code, the owner of a parcel of land that is located in a 585  
conservancy district that includes all or parts of more than 586  
sixteen counties, on which parcel an assessment was levied under 587  
section 6101.48 or 6101.53 of the Revised Code after January 1, 588  
2007, who filed an exception to the assessment, which exception 589  
was denied, may have the denial reviewed in the Supreme Court so 590  
long as a notice of appeal is filed in the Supreme Court not later 591  
than thirty days after the effective date of this section. 592

**Section 5.** Notwithstanding Chapter 6101. of the Revised Code, 593  
beginning on the effective date of this section and until January 594  
1, 2009, the board of directors of a conservancy district 595  
established under Chapter 6101. of the Revised Code that includes 596  
all or parts of more than sixteen counties shall not levy or 597  
collect an assessment under section 6101.48 or 6101.53 of the 598  
Revised Code. 599

Notwithstanding Chapter 6101. of the Revised Code, beginning 600  
on the effective date of this section and until January 1, 2009, a 601  
county treasurer shall not collect an assessment levied under 602  
section 6101.48 or 6101.53 of the Revised Code by a conservancy 603  
district that includes all or parts of more than sixteen counties. 604  
If necessary, a county treasurer shall revise applicable tax 605  
bills. A parcel of land on which such an assessment is levied is 606  
not liable for such an assessment. 607

**Section 6.** Sections 5, 6, and 7 of this act imply the intent 608  
that the General Assembly will evaluate, with respect to a 609  
conservancy district established under Chapter 6101. of the 610  
Revised Code that includes all or parts of more than sixteen 611  
counties, the composition of the board of directors, the duties of 612  
the board of directors, the levying and collection of an 613  
assessment in the district, and the economic burden on the 614  
citizens in the district in order to determine whether the General 615  
Assembly should enact legislation by June 30, 2008, to revise the 616  
statutes governing such directors, such directors' duties, and the 617  
levying and collection of an assessment in such a district. 618

**Section 7.** (A) Notwithstanding division (E) of section 619  
3704.14 of the Revised Code, the Governor, by executive order, may 620  
extend through June 30, 2008, the enhanced motor vehicle 621  
inspection and maintenance program that is operating on the 622  
effective date of this section in certain counties in this state. 623  
In addition, the Governor, by executive order, may extend the 624  
terms of any contract concerning that program in those counties 625  
through June 30, 2008. 626

(B) If the Governor, in consultation with the Director of 627  
Environmental Protection, determines that the implementation of 628  
the enhanced motor vehicle inspection and maintenance program 629  
referred to in division (A) of this section is necessary for the 630

state to effectively comply with the requirements of the federal 631  
Clean Air Act after June 30, 2008, the Governor, by executive 632  
order, may order the program to be implemented from July 1, 2008, 633  
through June 30, 2009. The Director of Environmental Protection 634  
shall select a vendor to operate the program during that time 635  
period via a competitive selection process pursuant to Chapter 636  
125. of the Revised Code. Upon the selection of a vendor by the 637  
Director, the Governor, by executive order, shall authorize the 638  
Director to enter into a contract with that vendor to operate the 639  
enhanced program through June 30, 2009. 640

(C) Implementation of this section depends upon a previously 641  
made appropriation of money for current expenses of state 642  
government. Therefore, under Ohio Constitution, Article II, 643  
Section 1d, this section goes into immediate effect. 644

**Section 8.** This act is hereby declared to be an emergency 645  
measure necessary for the immediate preservation of the public 646  
peace, health, and safety. The reason for such necessity is that 647  
immediate action is needed to clarify the entities that may file 648  
complaints for payments out of the Real Estate Appraiser Recovery 649  
Fund; and the delay in the levying or collection of an assessment 650  
by the board of directors of a conservancy district that includes 651  
all or parts of more than sixteen counties is necessary to provide 652  
additional time for the General Assembly to evaluate the levying 653  
and collection of an assessment by such a district in order to 654  
prevent the citizens of this state who reside in such a district 655  
from being subject to an undue economic burden. Therefore, this 656  
act shall go into immediate effect. 657