

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

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**Sub. H. B. No. 24**

**Representative Wagner**

**Cosponsors: Representatives McGregor, J., Wagoner, Gibbs, Combs,  
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Setzer, Szollosi, Uecker, Wachtmann, Webster, Williams, S., Yuko, Zehringer  
Senators Spada, Amstutz**

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**A B I L L**

To amend sections 718.01, 718.02, and 4763.16 of the	1
Revised Code to authorize municipalities to allow	2
self-employed taxpayers to take a municipal income	3
tax deduction for amounts paid for medical care	4
insurance, to authorize municipalities to allow	5
individuals to deduct amounts paid into health	6
savings accounts, to limit the entities that may	7
apply for Real Estate Appraiser Recovery Fund	8
payments, to allow certain property owners whose	9
property is located in certain conservancy	10
districts to have the Supreme Court review denials	11
of their exceptions to an assessment, to establish	12
a moratorium on the levying and collection of	13
assessments by certain conservancy districts, and	14

to declare an emergency. 15

**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 16  
Revised Code be amended to read as follows: 17

**Sec. 718.01.** (A) As used in this chapter: 18

(1) "Adjusted federal taxable income" means a C corporation's 19  
federal taxable income before net operating losses and special 20  
deductions as determined under the Internal Revenue Code, adjusted 21  
as follows: 22

(a) Deduct intangible income to the extent included in 23  
federal taxable income. The deduction shall be allowed regardless 24  
of whether the intangible income relates to assets used in a trade 25  
or business or assets held for the production of income. 26

(b) Add an amount equal to five per cent of intangible income 27  
deducted under division (A)(1)(a) of this section, but excluding 28  
that portion of intangible income directly related to the sale, 29  
exchange, or other disposition of property described in section 30  
1221 of the Internal Revenue Code; 31

(c) Add any losses allowed as a deduction in the computation 32  
of federal taxable income if the losses directly relate to the 33  
sale, exchange, or other disposition of an asset described in 34  
section 1221 or 1231 of the Internal Revenue Code; 35

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 36  
section, deduct income and gain included in federal taxable income 37  
to the extent the income and gain directly relate to the sale, 38  
exchange, or other disposition of an asset described in section 39  
1221 or 1231 of the Internal Revenue Code; 40

(ii) Division (A)(1)(d)(i) of this section does not apply to 41

the extent the income or gain is income or gain described in 42  
section 1245 or 1250 of the Internal Revenue Code. 43

(e) Add taxes on or measured by net income allowed as a 44  
deduction in the computation of federal taxable income; 45

(f) In the case of a real estate investment trust and 46  
regulated investment company, add all amounts with respect to 47  
dividends to, distributions to, or amounts set aside for or 48  
credited to the benefit of investors and allowed as a deduction in 49  
the computation of federal taxable income; 50

(g) If the taxpayer is not a C corporation and is not an 51  
individual, the taxpayer shall compute adjusted federal taxable 52  
income as if the taxpayer were a C corporation, except: 53

(i) Guaranteed payments and other similar amounts paid or 54  
accrued to a partner, former partner, member, or former member 55  
shall not be allowed as a deductible expense; and 56

(ii) Amounts paid or accrued to a qualified self-employed 57  
retirement plan with respect to an owner or owner-employee of the 58  
taxpayer, amounts paid or accrued to or for health insurance for 59  
an owner or owner-employee, and amounts paid or accrued to or for 60  
life insurance for an owner or owner-employee shall not be allowed 61  
as a deduction. 62

Nothing in division (A)(1) of this section shall be construed 63  
as allowing the taxpayer to add or deduct any amount more than 64  
once or shall be construed as allowing any taxpayer to deduct any 65  
amount paid to or accrued for purposes of federal self-employment 66  
tax. 67

Nothing in this chapter shall be construed as limiting or 68  
removing the ability of any municipal corporation to administer, 69  
audit, and enforce the provisions of its municipal income tax. 70

(2) "Internal Revenue Code" means the Internal Revenue Code 71

of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.	72
(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.	73 74
(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.	75 76
(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.	77 78 79 80 81 82 83 84 85 86 87
(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.	88 89 90
(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>	91 92 93 94 95 96 97 98
(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 that is a disregarded entity or a qualifying subchapter S	99 100 101 102

subsidiary for federal income tax purposes, but "taxpayer"	103
includes any other person who owns the disregarded entity or	104
qualifying subchapter S subsidiary.	105
(9) "Taxable year" means the corresponding tax reporting	106
period as prescribed for the taxpayer under the Internal Revenue	107
Code.	108
(10) "Tax administrator" means the individual charged with	109
direct responsibility for administration of a tax on income levied	110
by a municipal corporation and includes:	111
(a) The central collection agency and the regional income tax	112
agency and their successors in interest, and other entities	113
organized to perform functions similar to those performed by the	114
central collection agency and the regional income tax agency;	115
(b) A municipal corporation acting as the agent of another	116
municipal corporation; and	117
(c) Persons retained by a municipal corporation to administer	118
a tax levied by the municipal corporation, but only if the	119
municipal corporation does not compensate the person in whole or	120
in part on a contingency basis.	121
(11) "Person" includes individuals, firms, companies,	122
business trusts, estates, trusts, partnerships, limited liability	123
companies, associations, corporations, governmental entities, and	124
any other entity.	125
(12) "Schedule E" means internal revenue service schedule E	126
filed by a taxpayer pursuant to the Internal Revenue Code.	127
(13) "Schedule F" means internal revenue service schedule F	128
filed by a taxpayer pursuant to the Internal Revenue Code.	129
(B) No municipal corporation shall tax income at other than a	130
uniform rate.	131
(C) No municipal corporation shall levy a tax on income at a	132

rate in excess of one per cent without having obtained the 133  
approval of the excess by a majority of the electors of the 134  
municipality voting on the question at a general, primary, or 135  
special election. The legislative authority of the municipal 136  
corporation shall file with the board of elections at least 137  
seventy-five days before the day of the election a copy of the 138  
ordinance together with a resolution specifying the date the 139  
election is to be held and directing the board of elections to 140  
conduct the election. The ballot shall be in the following form: 141  
"Shall the Ordinance providing for a ... per cent levy on income 142  
for (Brief description of the purpose of the proposed levy) be 143  
passed? 144

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

145  
146  
147  
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In the event of an affirmative vote, the proceeds of the levy 149  
may be used only for the specified purpose. 150

(D)(1) Except as otherwise provided in ~~division (E) or (F)~~ of 151  
this section, no municipal corporation shall exempt from a tax on 152  
income compensation for personal services of individuals over 153  
eighteen years of age or the net profit from a business or 154  
profession. 155

(2)(a) For taxable years beginning on or after January 1, 156  
2004, no municipal corporation shall tax the net profit from a 157  
business or profession using any base other than the taxpayer's 158  
adjusted federal taxable income. 159

(b) Division (D)(2)(a) of this section does not apply to any 160  
taxpayer required to file a return under section 5745.03 of the 161  
Revised Code or to the net profit from a sole proprietorship. 162

(E)(1) The legislative authority of a municipal corporation 163

may, by ordinance or resolution, exempt from withholding and from 164  
a tax on income the following: 165

~~(1)~~(a) Compensation arising from the sale, exchange, or other 166  
disposition of a stock option, the exercise of a stock option, or 167  
the sale, exchange, or other disposition of stock purchased under 168  
a stock option; or 169

~~(2)~~(b) Compensation attributable to a nonqualified deferred 170  
compensation plan or program described in section 3121(v)(2)(C) of 171  
the Internal Revenue Code. 172

(2) The legislative authority of a municipal corporation may 173  
adopt an ordinance or resolution that allows a taxpayer who is an 174  
individual to deduct, in computing the taxpayer's municipal income 175  
tax liability, an amount equal to the aggregate amount the 176  
taxpayer paid in cash during the taxable year to a health savings 177  
account of the taxpayer, to the extent the taxpayer is entitled to 178  
deduct that amount on internal revenue service form 1040. 179

(3) The legislative authority of a municipal corporation may 180  
adopt an ordinance or resolution that allows a taxpayer who has a 181  
net profit from a business or profession that is operated as a 182  
sole proprietorship to deduct from that net profit the amount that 183  
the taxpayer paid during the taxable year for medical care 184  
insurance premiums for the taxpayer, the taxpayer's spouse, and 185  
dependents as defined in section 5747.01 of the Revised Code. The 186  
deduction shall be allowed to the same extent the taxpayer is 187  
entitled to deduct the premiums on internal revenue service form 188  
1040. The deduction allowed under this division shall be net of 189  
any related premium refunds, related premium reimbursements, or 190  
related insurance premium dividends received by the taxpayer 191  
during the taxable year. 192

(F) If an individual's taxable income includes income against 193  
which the taxpayer has taken a deduction for federal income tax 194

purposes as reportable on the taxpayer's form 2106, and against 195  
which a like deduction has not been allowed by the municipal 196  
corporation, the municipal corporation shall deduct from the 197  
taxpayer's taxable income an amount equal to the deduction shown 198  
on such form allowable against such income, to the extent not 199  
otherwise so allowed as a deduction by the municipal corporation. 200

(G)(1) In the case of a taxpayer who has a net profit from a 201  
business or profession that is operated as a sole proprietorship, 202  
no municipal corporation may tax or use as the base for 203  
determining the amount of the net profit that shall be considered 204  
as having a taxable situs in the municipal corporation, an amount 205  
other than the net profit required to be reported by the taxpayer 206  
on schedule C or F from such sole proprietorship for the taxable 207  
year. 208

(2) In the case of a taxpayer who has a net profit from 209  
rental activity required to be reported on schedule E, no 210  
municipal corporation may tax or use as the base for determining 211  
the amount of the net profit that shall be considered as having a 212  
taxable situs in the municipal corporation, an amount other than 213  
the net profit from rental activities required to be reported by 214  
the taxpayer on schedule E for the taxable year. 215

~~(F)~~(H) A municipal corporation shall not tax any of the 216  
following: 217

(1) The military pay or allowances of members of the armed 218  
forces of the United States and of members of their reserve 219  
components, including the Ohio national guard; 220

(2) The income of religious, fraternal, charitable, 221  
scientific, literary, or educational institutions to the extent 222  
that such income is derived from tax-exempt real estate, 223  
tax-exempt tangible or intangible property, or tax-exempt 224  
activities; 225

(3) Except as otherwise provided in division <del>(G)</del> <u>(I)</u> of this section, intangible income;	226 227
(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.	228 229 230 231 232 233 234
(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;	235 236 237 238 239 240 241 242 243
(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:	244 245 246 247
(a) Beginning January 1, 2002, the income of an electric company or combined company;	248 249
(b) Beginning January 1, 2004, the income of a telephone company.	250 251
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.	252 253 254
(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;	255 256

(8) On and after January 1, 2001, compensation paid to a 257  
nonresident individual to the extent prohibited under section 258  
718.011 of the Revised Code; 259

(9)(a) Except as provided in division ~~(F)~~(H)(9)(b) and (c) of 260  
this section, an S corporation shareholder's distributive share of 261  
net profits of the S corporation, other than any part of the 262  
distributive share of net profits that represents wages as defined 263  
in section 3121(a) of the Internal Revenue Code or net earnings 264  
from self-employment as defined in section 1402(a) of the Internal 265  
Revenue Code. 266

(b) If, pursuant to division (H) of former section 718.01 of 267  
the Revised Code as it existed before March ~~11, 2004~~ 11, 2004, a 268  
majority of the electors of a municipal corporation voted in favor 269  
of the question at an election held on November 4, 2003, the 270  
municipal corporation may continue after 2002 to tax an S 271  
corporation shareholder's distributive share of net profits of an 272  
S corporation. 273

(c) If, on December 6, 2002, a municipal corporation was 274  
imposing, assessing, and collecting a tax on an S corporation 275  
shareholder's distributive share of net profits of the S 276  
corporation to the extent the distributive share would be 277  
allocated or apportioned to this state under divisions (B)(1) and 278  
(2) of section 5733.05 of the Revised Code if the S corporation 279  
were a corporation subject to taxes imposed under Chapter 5733. of 280  
the Revised Code, the municipal corporation may continue to impose 281  
the tax on such distributive shares to the extent such shares 282  
would be so allocated or apportioned to this state only until 283  
December 31, 2004, unless a majority of the electors of the 284  
municipal corporation voting on the question of continuing to tax 285  
such shares after that date vote in favor of that question at an 286  
election held November 2, 2004. If a majority of those electors 287  
vote in favor of the question, the municipal corporation may 288

continue after December 31, 2004, to impose the tax on such 289  
distributive shares only to the extent such shares would be so 290  
allocated or apportioned to this state. 291

(d) For the purposes of division (D) of section 718.14 of the 292  
Revised Code, a municipal corporation shall be deemed to have 293  
elected to tax S corporation shareholders' distributive shares of 294  
net profits of the S corporation in the hands of the shareholders 295  
if a majority of the electors of a municipal corporation vote in 296  
favor of a question at an election held under division 297  
~~(F)~~(H)(9)(b) or (c) of this section. The municipal corporation 298  
shall specify by ordinance or rule that the tax applies to the 299  
distributive share of a shareholder of an S corporation in the 300  
hands of the shareholder of the S corporation. 301

(10) Employee compensation that is not "qualifying wages" as 302  
defined in section 718.03 of the Revised Code; 303

(11) Beginning August 1, 2007, compensation paid to a person 304  
employed within the boundaries of a United States air force base 305  
under the jurisdiction of the United States air force that is used 306  
for the housing of members of the United States air force and is a 307  
center for air force operations, unless the person is subject to 308  
taxation because of residence or domicile. If the compensation is 309  
subject to taxation because of residence or domicile, municipal 310  
income tax shall be payable only to the municipal corporation of 311  
residence or domicile. 312

~~(G)~~(I) Any municipal corporation that taxes any type of 313  
intangible income on March 29, 1988, pursuant to Section 3 of 314  
Amended Substitute Senate Bill No. 238 of the 116th general 315  
assembly, may continue to tax that type of income after 1988 if a 316  
majority of the electors of the municipal corporation voting on 317  
the question of whether to permit the taxation of that type of 318  
intangible income after 1988 vote in favor thereof at an election 319  
held on November 8, 1988. 320

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

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

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

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

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

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

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

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

(e) The Ohio municipal corporation that is the primary place

of business of the sole member of the limited liability company 351  
consents to the election. 352

(2) For purposes of division ~~(J)~~(L)(1)(e) of this section, a 353  
municipal corporation is the primary place of business of a 354  
limited liability company if, for the limited liability company's 355  
taxable year ending in 2003, its income tax liability is greater 356  
in that municipal corporation than in any other municipal 357  
corporation in Ohio, and that tax liability to that municipal 358  
corporation for its taxable year ending in 2003 is at least four 359  
hundred thousand dollars. 360

**Sec. 718.02.** This section does not apply to taxpayers that 361  
are subject to and required to file reports under Chapter 5745. of 362  
the Revised Code. 363

(A) Except as otherwise provided in division (D) of this 364  
section, net profit from a business or profession conducted both 365  
within and without the boundaries of a municipal corporation shall 366  
be considered as having a taxable situs in such municipal 367  
corporation for purposes of municipal income taxation in the same 368  
proportion as the average ratio of the following: 369

(1) The average original cost of the real and tangible 370  
personal property owned or used by the taxpayer in the business or 371  
profession in such municipal corporation during the taxable period 372  
to the average original cost of all of the real and tangible 373  
personal property owned or used by the taxpayer in the business or 374  
profession during the same period, wherever situated. 375

As used in the preceding paragraph, real property shall 376  
include property rented or leased by the taxpayer and the value of 377  
such property shall be determined by multiplying the annual rental 378  
thereon by eight; 379

(2) Wages, salaries, and other compensation paid during the 380

taxable period to persons employed in the business or profession 381  
for services performed in such municipal corporation to wages, 382  
salaries, and other compensation paid during the same period to 383  
persons employed in the business or profession, wherever their 384  
services are performed, excluding compensation that is not taxable 385  
by the municipal corporation under section 718.011 of the Revised 386  
Code; 387

(3) Gross receipts of the business or profession from sales 388  
made and services performed during the taxable period in such 389  
municipal corporation to gross receipts of the business or 390  
profession during the same period from sales and services, 391  
wherever made or performed. 392

If the foregoing apportionment formula does not produce an 393  
equitable result, another basis may be substituted, under uniform 394  
regulations, so as to produce an equitable result. 395

(B) As used in division (A) of this section, "sales made in a 396  
municipal corporation" mean: 397

(1) All sales of tangible personal property delivered within 398  
such municipal corporation regardless of where title passes if 399  
shipped or delivered from a stock of goods within such municipal 400  
corporation; 401

(2) All sales of tangible personal property delivered within 402  
such municipal corporation regardless of where title passes even 403  
though transported from a point outside such municipal corporation 404  
if the taxpayer is regularly engaged through its own employees in 405  
the solicitation or promotion of sales within such municipal 406  
corporation and the sales result from such solicitation or 407  
promotion; 408

(3) All sales of tangible personal property shipped from a 409  
place within such municipal corporation to purchasers outside such 410  
municipal corporation regardless of where title passes if the 411

taxpayer is not, through its own employees, regularly engaged in 412  
the solicitation or promotion of sales at the place where delivery 413  
is made. 414

(C) Except as otherwise provided in division (D) of this 415  
section, net profit from rental activity not constituting a 416  
business or profession shall be subject to tax only by the 417  
municipal corporation in which the property generating the net 418  
profit is located. 419

(D) This section does not apply to individuals who are 420  
residents of the municipal corporation and, except as otherwise 421  
provided in section 718.01 of the Revised Code, a municipal 422  
corporation may impose a tax on all income earned by residents of 423  
the municipal corporation to the extent allowed by the United 424  
States Constitution. 425

(E) If, in computing the taxpayer's adjusted federal taxable 426  
income, the taxpayer deducted any amount with respect to a stock 427  
option granted to an employee, and if the employee is not required 428  
to include in income any amount or any portion thereof because it 429  
is exempted from taxation under division ~~(F)~~(H)(10) of section 430  
718.01 of the Revised Code and division (A)(2)(d) of section 431  
718.03 of the Revised Code by a municipal corporation to which the 432  
taxpayer has apportioned a portion of its net profit, the taxpayer 433  
shall add the amount that is exempt from taxation to the 434  
taxpayer's net profit that was apportioned to that municipal 435  
corporation. In no case shall a taxpayer be required to add to its 436  
net profit that was apportioned to that municipal corporation any 437  
amount other than the amount upon which the employee would be 438  
required to pay tax were the amount related to the stock option 439  
not exempted from taxation. 440

This division applies solely for the purpose of making an 441  
adjustment to the amount of a taxpayer's net profit that was 442  
apportioned to a municipal corporation under divisions (A) and (B) 443

of this section. 444

**Sec. 4763.16.** (A) The real estate appraiser recovery fund is 445  
hereby created in the state treasury, to be administered by the 446  
superintendent of real estate. The treasurer of state shall credit 447  
to the fund amounts collected by the superintendent as prescribed 448  
in this section and interest earned on the assets of the fund. The 449  
superintendent shall ascertain the balance of the fund as of the 450  
first day of October of each year. If that balance is less than 451  
five hundred thousand dollars, the director of budget and 452  
management, upon the request of the superintendent, may transfer 453  
from the real estate appraiser operating fund to the real estate 454  
appraiser recovery fund a sum as will bring the real estate 455  
appraiser recovery fund to that amount. 456

(B) When any person, ~~except a bonding or insurance company or~~ 457  
~~any partnership, corporation, or association employing a person~~ 458  
~~licensed, registered, or certified under this chapter as part of~~ 459  
~~its usual or occasional operations,~~ obtains a final judgment in 460  
any court of competent jurisdiction against a certificate holder, 461  
registrant, or licensee, based upon conduct that is in violation 462  
of this chapter or the rules adopted under it, which conduct 463  
occurred on or after the date of their certification, 464  
registration, or licensure, and that is associated with an act or 465  
transaction of a certificate holder, registrant, or licensee 466  
specified ~~or comprehended~~ in this chapter, that person may file a 467  
verified complaint, as described in this division, in ~~any~~ the 468  
Franklin county court of common pleas for an order directing 469  
payment out of the real estate appraiser recovery fund of the 470  
portion of the judgment that remains unpaid and that represents 471  
the actual and direct loss of the person for the act or 472  
transaction upon which the underlying judgment was based, and 473  
court costs, if awarded in the underlying judgment, provided that 474  
no person shall receive more than ten thousand dollars from the 475

fund for any one judgment. A bonding or insurance company or any 476  
partnership, corporation, or association that uses any tool to 477  
develop a valuation of real property for purposes of a loan or 478  
that employs, retains, or engages as an independent contractor a 479  
person licensed, registered, or certified as a real estate 480  
appraiser in its usual or occasional operations may not seek an 481  
order directing, and is not eligible for, payment out of the fund. 482

Punitive or exemplary damages are not recoverable from the fund. 483

The complaint shall specify the nature of the act or 484  
transaction upon which the underlying judgment was based, the 485  
activities of the applicant in pursuit of remedies available under 486  
law for the collection of judgments, and the amount of the fee 487  
paid by the applicant to the certificate holder, registrant, or 488  
licensee. The applicant shall attach to the complaint a copy of 489  
each pleading and order in the underlying court action. 490

The Franklin county court of common pleas shall order the 491  
superintendent to make payments out of the fund when the person 492  
seeking the order has shown all of the following: 493

(1) The person has obtained a judgment, as provided in this 494  
division; 495

(2) All appeals from the judgment have been exhausted and the 496  
person has given notice to the superintendent, as required by 497  
division (C) of this section; 498

(3) The person is not a spouse of the certificate holder, 499  
registrant, or licensee, or the personal representative of the 500  
spouse; 501

(4) The person has diligently pursued the person's remedies 502  
against all the certificate holders, registrants, licensees, and 503  
all other persons liable to the person in the transaction for 504  
which the person seeks recovery from the fund; 505

(5) The person is making a complaint not more than one year 506

after termination of all proceedings, including appeals, in 507  
connection with the judgment. 508

(C) A person who applies to a the Franklin county court of 509  
common pleas for an order directing payment out of the fund shall 510  
file notice of the complaint with the superintendent. The 511  
superintendent shall send notice to the affected certificate 512  
holder, registrant, or licensee, where possible. The 513  
superintendent may defend the action on behalf of the fund and 514  
shall have recourse to all appropriate means of defense and 515  
review, including examination of witnesses. The superintendent may 516  
move the court at any time to dismiss the complaint when it 517  
appears there are no triable issues and the complaint is without 518  
merit. The motion may be supported by affidavit of any person 519  
having knowledge of the facts and may be made on the basis that 520  
the complaint, including the judgment referred to in the 521  
complaint, does not form the basis for a meritorious recovery 522  
claim, ~~provided that the superintendent shall give written notice~~ 523  
~~to the applicant at least ten days before such motion.~~ The 524  
superintendent may, subject to court approval, compromise a claim 525  
based upon the complaint of an aggrieved party. The superintendent 526  
is not bound by any prior compromise or stipulation of the 527  
certificate holder, registrant, or licensee. Upon petition of the 528  
superintendent, the court may require all claimants and 529  
prospective claimants against one certificate holder, registrant, 530  
or licensee to be joined in one action, to the end that the 531  
respective rights of all such claimants to the fund may be 532  
equitably adjudicated and settled. 533

(D) If the superintendent pays from the fund any amount in 534  
settlement of a claim or toward satisfaction of a judgment against 535  
a certificate holder, registrant, or licensee, the certificate, 536  
registration, or license of the certificate holder, registrant, or 537  
licensee automatically is suspended upon the date of payment from 538

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

(E) If, at any time, the money deposited in the fund is 548  
insufficient to satisfy any duly authorized claim or portion of a 549  
claim, the superintendent shall, when sufficient money has been 550  
deposited in the fund, satisfy the unpaid claims or portions, in 551  
the order that the claims or portions were originally filed, plus 552  
accumulated interest per annum at the rate specified in division 553  
(A) of section 1343.03 of the Revised Code. 554

(F) When, upon the order of the court, the superintendent has 555  
paid from the fund any sum to the judgment creditor, the 556  
superintendent is subrogated to all of the rights of the judgment 557  
creditor to the extent of the amount so paid, and the judgment 558  
creditor shall assign all of the judgment creditor's right, title, 559  
and interest in the judgment to the superintendent to the extent 560  
of the amount so paid. The superintendent shall deposit in the 561  
fund any amount and interest so recovered by the superintendent on 562  
the judgment. 563

(G) Nothing contained in this section shall limit the 564  
authority of the real estate appraiser board to take disciplinary 565  
action against a certificate holder, registrant, or licensee under 566  
other provisions of this chapter. The repayment in full of all 567  
obligations to the fund by a certificate holder, registrant, or 568  
licensee does not nullify or modify the effect of any other 569  
disciplinary proceeding brought pursuant to this chapter, unless 570

repayment is imposed as a condition in that proceeding. 571

(H) The superintendent shall collect from the fund a service 572  
fee in an amount equivalent to the interest rate specified in 573  
division (A) of section 1343.03 of the Revised Code multiplied by 574  
the annual interest earned on the assets of the fund, to defray 575  
the expenses incurred in the administration of the fund. 576

**Section 2.** That existing sections 718.01, 718.02, and 4763.16 577  
of the Revised Code are hereby repealed. 578

**Section 3.** The amendment by this act of sections 718.01 and 579  
718.02 of the Revised Code applies to taxable years beginning on 580  
or after January 1, 2008. 581

**Section 4.** Notwithstanding section 6101.34 of the Revised 582  
Code, the owner of a parcel of land that is located in a 583  
conservancy district that includes all or parts of more than 584  
sixteen counties, on which parcel an assessment was levied under 585  
section 6101.48 or 6101.53 of the Revised Code after January 1, 586  
2007, who filed an exception to the assessment, which exception 587  
was denied, may have the denial reviewed in the Supreme Court so 588  
long as a notice of appeal is filed in the Supreme Court not later 589  
than thirty days after the effective date of this section. 590

**Section 5.** Notwithstanding Chapter 6101. of the Revised Code, 591  
beginning on the effective date of this section and until January 592  
1, 2009, the board of directors of a conservancy district 593  
established under Chapter 6101. of the Revised Code that includes 594  
all or parts of more than sixteen counties shall not levy or 595  
collect an assessment under section 6101.48 or 6101.53 of the 596  
Revised Code. 597

Notwithstanding Chapter 6101. of the Revised Code, beginning 598  
on the effective date of this section and until January 1, 2009, a 599

county treasurer shall not collect an assessment levied under 600  
section 6101.48 or 6101.53 of the Revised Code by a conservancy 601  
district that includes all or parts of more than sixteen counties. 602  
If necessary, a county treasurer shall revise applicable tax 603  
bills. A parcel of land on which such an assessment is levied is 604  
not liable for such an assessment. 605

**Section 6.** Sections 5, 6, and 7 of this act imply the intent 606  
that the General Assembly will evaluate, with respect to a 607  
conservancy district established under Chapter 6101. of the 608  
Revised Code that includes all or parts of more than sixteen 609  
counties, the composition of the board of directors, the duties of 610  
the board of directors, the levying and collection of an 611  
assessment in the district, and the economic burden on the 612  
citizens in the district in order to determine whether the General 613  
Assembly should enact legislation by June 30, 2008, to revise the 614  
statutes governing such directors, such directors' duties, and the 615  
levying and collection of an assessment in such a district. 616

**Section 7.** This act is hereby declared to be an emergency 617  
measure necessary for the immediate preservation of the public 618  
peace, health, and safety. The reason for such necessity is that 619  
immediate action is needed to clarify the entities that may file 620  
complaints for payments out of the Real Estate Appraiser Recovery 621  
Fund; and the delay in the levying or collection of an assessment 622  
by the board of directors of a conservancy district that includes 623  
all or parts of more than sixteen counties is necessary to provide 624  
additional time for the General Assembly to evaluate the levying 625  
and collection of an assessment by such a district in order to 626  
prevent the citizens of this state who reside in such a district 627  
from being subject to an undue economic burden. Therefore, this 628  
act shall go into immediate effect. 629