

AN ACT

To amend sections 1151.345, 1161.59, 1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3901.21, 3905.451, 3923.80, 4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02, to enact sections 4717.31 to 4717.38, and to repeal sections 1111.19 and 1111.99 of the Revised Code to revise the Preneed Funeral Contract Law and to exempt the requirement that health insurers cover routine patient care administered during a cancer clinical trial from the requirements regarding mandated health benefit review.

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

SECTION 1. That sections 1151.345, 1161.59, 1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3901.21, 3905.451, 3923.80, 4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 be amended and sections 4717.31, 4717.32, 4717.33, 4717.34, 4717.35, 4717.36, 4717.37, and 4717.38 of the Revised Code be enacted to read as follows:

Sec. 1151.345. A savings and loan association, in accordance with sections ~~1111.19 and~~ 1721.211 and 4717.31 to 4717.38 of the Revised Code, may receive and hold on deposit moneys under a preneed funeral contract or a preneed cemetery merchandise and services contract.

Sec. 1161.59. In accordance with sections ~~1111.19 and~~ 1721.211 and 4717.31 to 4717.38 of the Revised Code, a savings bank may receive and hold on deposit moneys under a preneed funeral contract or a preneed cemetery merchandise and services contract.

Sec. 1733.51. A credit union may, subject to sections ~~1111.19 and~~ 1721.211 and 4717.31 to 4717.38 of the Revised Code, receive and hold on deposit moneys under a preneed funeral contract or preneed cemetery merchandise and services contract.

Sec. 2108.81. (A) If either of the following is true, division (B) of this section shall apply:

(1) An adult has not executed a written declaration pursuant to sections 2108.70 to 2108.73 of the Revised Code that remains in force at the time of the adult's death.

(2) Each person to whom the right of disposition has been assigned or reassigned pursuant to a written declaration is disqualified from exercising the right as described in section 2108.75 of the Revised Code.

(B) Subject to division (A) of this section and sections 2108.75 and 2108.79 of the Revised Code, the right of disposition is assigned to the following persons, if mentally competent adults who can be located with reasonable effort, in the order of priority stated:

(1) The deceased person's surviving spouse;

(2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;

(3) The deceased person's surviving parent or parents;

(4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;

(5) The deceased person's surviving grandparent or grandparents;

(6) The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren collectively;

(7) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;

~~(7)~~(8) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;

~~(8)~~(9) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the persons in divisions (B)(1) to ~~(7)~~(8) of this section.

(10) If the deceased person was an indigent person or other person the final disposition of whose body is the financial and statutory responsibility of the state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the remains of the deceased person.

Sec. 2117.251. A claim under the bill of a funeral director pursuant to section 2117.25 of the Revised Code arises subsequent to the death of the decedent and is not in satisfaction of a personal obligation of the individual during the individual's lifetime. If a decedent during the decedent's lifetime has purchased an irrevocable preneed funeral contract pursuant to section ~~4117.19~~ 4717.34 of the Revised Code, then those provisions of section

2117.25 of the Revised Code that relate to the bill of a funeral director, including divisions (A) and (B) of that section, do not apply to the estate of the decedent and the estate is not liable for the funeral expenses of the decedent.

Sec. 3103.03. (A) Each married person must support the person's self and spouse out of the person's property or by the person's labor. If a married person is unable to do so, the spouse of the married person must assist in the support so far as the spouse is able. The biological or adoptive parent of a minor child must support the parent's minor children out of the parent's property or by the parent's labor.

(B) Notwithstanding section 3109.01 of the Revised Code and to the extent provided in section ~~3319.86~~ 3119.86 of the Revised Code, the parental duty of support to children shall continue beyond the age of majority as long as the child continuously attends on a full-time basis any recognized and accredited high school. That duty of support shall continue during seasonal vacation periods.

(C) If a married person neglects to support the person's spouse in accordance with this section, any other person, in good faith, may supply the spouse with necessaries for the support of the spouse and recover the reasonable value of the necessaries supplied from the married person who neglected to support the spouse unless the spouse abandons that person without cause.

(D) If a parent neglects to support the parent's minor child in accordance with this section and if the minor child in question is unemancipated, any other person, in good faith, may supply the minor child with necessaries for the support of the minor child and recover the reasonable value of the necessaries supplied from the parent who neglected to support the minor child.

(E) If a decedent during the decedent's lifetime has purchased an irrevocable preneed funeral contract pursuant to section ~~4409.75~~ 4717.34 of the Revised Code, then the duty of support owed to a spouse pursuant to this section does not include an obligation to pay for the funeral expenses of the deceased spouse. This division does not preclude a surviving spouse from assuming by contract the obligation to pay for the funeral expenses of the deceased spouse.

Sec. 3901.04. (A) As used in this section:

(1) "Laws of this state relating to insurance" include but are not limited to Chapter 1751. notwithstanding section 1751.08, Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and Chapter 5729. of the Revised Code. Sections 4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the

Revised Code are "laws of this state relating to insurance" to the extent those sections apply to insurance companies or insurance agents.

(2) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Whenever it appears to the superintendent of insurance, from the superintendent's files, upon complaint or otherwise, that any person has engaged in, is engaged in, or is about to engage in any act or practice declared to be illegal or prohibited by the laws of this state relating to insurance, or defined as unfair or deceptive by such laws, or when the superintendent believes it to be in the best interest of the public and necessary for the protection of the people in this state, the superintendent or anyone designated by the superintendent under the superintendent's official seal may do any one or more of the following:

(1) Require any person to file with the superintendent, on a form that is appropriate for review by the superintendent, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the person's conduct of the business of insurance within this state and as to any other information that the superintendent considers to be material or relevant to such business;

(2) Administer oaths, summon and compel by order or subpoena the attendance of witnesses to testify in relation to any matter which, by the laws of this state relating to insurance, is the subject of inquiry and investigation, and require the production of any book, paper, or document pertaining to such matter. A subpoena, notice, or order under this section may be served by certified mail, return receipt requested. If the subpoena, notice, or order is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena, notice, or order may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena, notice, or order is returned because of inability to deliver, the superintendent may designate a person or persons to effect either personal or residence service upon the witness. Service of any subpoena, notice, or order and return may also be made in any manner authorized under the Rules of Civil Procedure. Such service shall be made by an employee of the department designated by the superintendent, a sheriff, a deputy sheriff, an attorney, or any person authorized by the Rules of Civil Procedure to serve process.

In the case of disobedience of any notice, order, or subpoena served on a person or the refusal of a witness to testify to a matter regarding which the person may lawfully be interrogated, the court of common pleas of the

county where venue is appropriate, on application by the superintendent, may compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. Witnesses shall receive the fees and mileage allowed by section 2335.06 of the Revised Code. All such fees, upon the presentation of proper vouchers approved by the superintendent, shall be paid out of the appropriation for the contingent fund of the department of insurance. The fees and mileage of witnesses not summoned by the superintendent or the superintendent's designee shall not be paid by the state.

(3) In a case in which there is no administrative procedure available to the superintendent to resolve a matter at issue, request the attorney general to commence an action for a declaratory judgment under Chapter 2721. of the Revised Code with respect to the matter.

(4) Initiate criminal proceedings by presenting evidence of the commission of any criminal offense established under the laws of this state relating to insurance to the prosecuting attorney of any county in which the offense may be prosecuted. At the request of the prosecuting attorney, the attorney general may assist in the prosecution of the violation with all the rights, privileges, and powers conferred by law on prosecuting attorneys including, but not limited to, the power to appear before grand juries and to interrogate witnesses before grand juries.

Sec. 3901.21. The following are hereby defined as unfair and deceptive acts or practices in the business of insurance:

(A) Making, issuing, circulating, or causing or permitting to be made, issued, or circulated, or preparing with intent to so use, any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statements as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer as shown by the last preceding verified statement made by it to the insurance department of this state, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation or incomplete comparison to any person for the purpose of inducing or tending to induce such person to purchase, amend, lapse, forfeit, change, or surrender insurance.

Any written statement concerning the premiums for a policy which

refers to the net cost after credit for an assumed dividend, without an accurate written statement of the gross premiums, cash values, and dividends based on the insurer's current dividend scale, which are used to compute the net cost for such policy, and a prominent warning that the rate of dividend is not guaranteed, is a misrepresentation for the purposes of this division.

(B) Making, publishing, disseminating, circulating, or placing before the public or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, or preparing with intent to so use, an advertisement, announcement, or statement containing any assertion, representation, or statement, with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(C) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating, or preparing with intent to so use, any statement, pamphlet, circular, article, or literature, which is false as to the financial condition of an insurer and which is calculated to injure any person engaged in the business of insurance.

(D) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer.

Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer, or mutilating, destroying, suppressing, withholding, or concealing any of its records.

(E) Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency company stock or other capital stock or benefit certificates or shares in any common-law corporation or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(F) Making or permitting any unfair discrimination among individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(G)(1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities, or other obligations of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(2) Nothing in division (F) or division (G)(1) of this section shall be construed as prohibiting any of the following practices: (a) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; (b) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; (c) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(H) Making, issuing, circulating, or causing or permitting to be made, issued, or circulated, or preparing with intent to so use, any statement to the effect that a policy of life insurance is, is the equivalent of, or represents shares of capital stock or any rights or options to subscribe for or otherwise acquire any such shares in the life insurance company issuing that policy or any other company.

(I) Making, issuing, circulating, or causing or permitting to be made, issued or circulated, or preparing with intent to so issue, any statement to the effect that payments to a policyholder of the principal amounts of a pure endowment are other than payments of a specific benefit for which specific premiums have been paid.

(J) Making, issuing, circulating, or causing or permitting to be made, issued, or circulated, or preparing with intent to so use, any statement to the effect that any insurance company was required to change a policy form or related material to comply with Title XXXIX of the Revised Code or any regulation of the superintendent of insurance, for the purpose of inducing or intending to induce any policyholder or prospective policyholder to purchase, amend, lapse, forfeit, change, or surrender insurance.

(K) Aiding or abetting another to violate this section.

(L) Refusing to issue any policy of insurance, or canceling or declining to renew such policy because of the sex or marital status of the applicant, prospective insured, insured, or policyholder.

(M) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, other than life insurance, or in the benefits payable thereunder, or in underwriting standards and practices or eligibility requirements, or in any of the terms or conditions of such contract, or in any other manner whatever.

(N) Refusing to make available disability income insurance solely because the applicant's principal occupation is that of managing a household.

(O) Refusing, when offering maternity benefits under any individual or group sickness and accident insurance policy, to make maternity benefits available to the policyholder for the individual or individuals to be covered under any comparable policy to be issued for delivery in this state, including family members if the policy otherwise provides coverage for family members. Nothing in this division shall be construed to prohibit an insurer from imposing a reasonable waiting period for such benefits under an individual sickness and accident insurance policy issued to an individual who is not a federally eligible individual or a nonemployer-related group sickness and accident insurance policy, but in no event shall such waiting period exceed two hundred seventy days.

For purposes of division (O) of this section, "federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

(P) Using, or permitting to be used, a pattern settlement as the basis of any offer of settlement. As used in this division, "pattern settlement" means

a method by which liability is routinely imputed to a claimant without an investigation of the particular occurrence upon which the claim is based and by using a predetermined formula for the assignment of liability arising out of occurrences of a similar nature. Nothing in this division shall be construed to prohibit an insurer from determining a claimant's liability by applying formulas or guidelines to the facts and circumstances disclosed by the insurer's investigation of the particular occurrence upon which a claim is based.

(Q) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent, or kind of life or sickness and accident insurance or annuity coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated actuarial experience as are sighted persons. Refusal to insure includes, but is not limited to, denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the eyesight of the insured is lost. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such conditions existed at the time the policy was issued. To the extent that the provisions of this division may appear to conflict with any provision of section 3999.16 of the Revised Code, this division applies.

(R)(1) Directly or indirectly offering to sell, selling, or delivering, issuing for delivery, renewing, or using or otherwise marketing any policy of insurance or insurance product in connection with or in any way related to the grant of a student loan guaranteed in whole or in part by an agency or commission of this state or the United States, except insurance that is required under federal or state law as a condition for obtaining such a loan and the premium for which is included in the fees and charges applicable to the loan; or, in the case of an insurer or insurance agent, knowingly permitting any lender making such loans to engage in such acts or practices in connection with the insurer's or agent's insurance business.

(2) Except in the case of a violation of division (G) of this section, division (R)(1) of this section does not apply to either of the following:

(a) Acts or practices of an insurer, its agents, representatives, or employees in connection with the grant of a guaranteed student loan to its insured or the insured's spouse or dependent children where such acts or practices take place more than ninety days after the effective date of the

insurance;

(b) Acts or practices of an insurer, its agents, representatives, or employees in connection with the solicitation, processing, or issuance of an insurance policy or product covering the student loan borrower or the borrower's spouse or dependent children, where such acts or practices take place more than one hundred eighty days after the date on which the borrower is notified that the student loan was approved.

(S) Denying coverage, under any health insurance or health care policy, contract, or plan providing family coverage, to any natural or adopted child of the named insured or subscriber solely on the basis that the child does not reside in the household of the named insured or subscriber.

(T)(1) Using any underwriting standard or engaging in any other act or practice that, directly or indirectly, due solely to any health status-related factor in relation to one or more individuals, does either of the following:

(a) Terminates or fails to renew an existing individual policy, contract, or plan of health benefits, or a health benefit plan issued to an employer, for which an individual would otherwise be eligible;

(b) With respect to a health benefit plan issued to an employer, excludes or causes the exclusion of an individual from coverage under an existing employer-provided policy, contract, or plan of health benefits.

(2) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of implementing division (T)(1) of this section.

(3) For purposes of division (T)(1) of this section, "health status-related factor" means any of the following:

(a) Health status;

(b) Medical condition, including both physical and mental illnesses;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including conditions arising out of acts of domestic violence;

(h) Disability.

(U) With respect to a health benefit plan issued to a small employer, as those terms are defined in section 3924.01 of the Revised Code, negligently or willfully placing coverage for adverse risks with a certain carrier, as defined in section 3924.01 of the Revised Code.

(V) Using any program, scheme, device, or other unfair act or practice that, directly or indirectly, causes or results in the placing of coverage for

adverse risks with another carrier, as defined in section 3924.01 of the Revised Code.

(W) Failing to comply with section 3923.23, 3923.231, 3923.232, 3923.233, or 3923.234 of the Revised Code by engaging in any unfair, discriminatory reimbursement practice.

(X) Intentionally establishing an unfair premium for, or misrepresenting the cost of, any insurance policy financed under a premium finance agreement of an insurance premium finance company.

(Y)(1)(a) Limiting coverage under, refusing to issue, canceling, or refusing to renew, any individual policy or contract of life insurance, or limiting coverage under or refusing to issue any individual policy or contract of health insurance, for the reason that the insured or applicant for insurance is or has been a victim of domestic violence;

(b) Adding a surcharge or rating factor to a premium of any individual policy or contract of life or health insurance for the reason that the insured or applicant for insurance is or has been a victim of domestic violence;

(c) Denying coverage under, or limiting coverage under, any policy or contract of life or health insurance, for the reason that a claim under the policy or contract arises from an incident of domestic violence;

(d) Inquiring, directly or indirectly, of an insured under, or of an applicant for, a policy or contract of life or health insurance, as to whether the insured or applicant is or has been a victim of domestic violence, or inquiring as to whether the insured or applicant has sought shelter or protection from domestic violence or has sought medical or psychological treatment as a victim of domestic violence.

(2) Nothing in division (Y)(1) of this section shall be construed to prohibit an insurer from inquiring as to, or from underwriting or rating a risk on the basis of, a person's physical or mental condition, even if the condition has been caused by domestic violence, provided that all of the following apply:

(a) The insurer routinely considers the condition in underwriting or in rating risks, and does so in the same manner for a victim of domestic violence as for an insured or applicant who is not a victim of domestic violence;

(b) The insurer does not refuse to issue any policy or contract of life or health insurance or cancel or refuse to renew any policy or contract of life insurance, solely on the basis of the condition, except where such refusal to issue, cancellation, or refusal to renew is based on sound actuarial principles or is related to actual or reasonably anticipated experience;

(c) The insurer does not consider a person's status as being or as having

been a victim of domestic violence, in itself, to be a physical or mental condition;

(d) The underwriting or rating of a risk on the basis of the condition is not used to evade the intent of division (Y)(1) of this section, or of any other provision of the Revised Code.

(3)(a) Nothing in division (Y)(1) of this section shall be construed to prohibit an insurer from refusing to issue a policy or contract of life insurance insuring the life of a person who is or has been a victim of domestic violence if the person who committed the act of domestic violence is the applicant for the insurance or would be the owner of the insurance policy or contract.

(b) Nothing in division (Y)(2) of this section shall be construed to permit an insurer to cancel or refuse to renew any policy or contract of health insurance in violation of the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C.A. 300gg-41(b), as amended, or in a manner that violates or is inconsistent with any provision of the Revised Code that implements the "Health Insurance Portability and Accountability Act of 1996."

(4) An insurer is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of any action taken by the insurer to comply with division (Y) of this section.

(5) As used in division (Y) of this section, "domestic violence" means any of the following acts:

(a) Knowingly causing or attempting to cause physical harm to a family or household member;

(b) Recklessly causing serious physical harm to a family or household member;

(c) Knowingly causing, by threat of force, a family or household member to believe that the person will cause imminent physical harm to the family or household member.

For the purpose of division (Y)(5) of this section, "family or household member" has the same meaning as in section 2919.25 of the Revised Code.

Nothing in division (Y)(5) of this section shall be construed to require, as a condition to the application of division (Y) of this section, that the act described in division (Y)(5) of this section be the basis of a criminal prosecution.

(Z) Disclosing a coroner's records by an insurer in violation of section 313.10 of the Revised Code.

(AA) Making, issuing, circulating, or causing or permitting to be made, issued, or circulated any statement or representation that a life insurance

policy or annuity is a contract for the purchase of funeral goods or services.

With respect to private passenger automobile insurance, no insurer shall charge different premium rates to persons residing within the limits of any municipal corporation based solely on the location of the residence of the insured within those limits.

The enumeration in sections 3901.19 to 3901.26 of the Revised Code of specific unfair or deceptive acts or practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the superintendent of insurance to adopt rules to implement this section, or to take action under other sections of the Revised Code.

This section does not prohibit the sale of shares of any investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1, as amended, or any policies, annuities, or other contracts described in section 3907.15 of the Revised Code.

As used in this section, "estimate," "statement," "representation," "misrepresentation," "advertisement," or "announcement" includes oral or written occurrences.

Sec. 3905.451. A life insurance policy or annuity that is issued, sold, or assigned for the purpose of purchasing funeral or burial goods or services, and the contractual obligation to provide the goods or services, are not subject to section ~~4111.19~~ 4717.36 of the Revised Code.

Sec. 3923.80. (A) ~~No~~ Notwithstanding section 3901.71 of the Revised Code, no health benefit plan or public employee benefit plan shall deny coverage for the costs of any routine patient care administered to an insured participating in any stage of an eligible cancer clinical trial, if that care would be covered under the plan if the insured was not participating in a clinical trial.

(B) The coverage that may not be excluded under division (A) of this section is subject to all terms, conditions, restrictions, exclusions, and limitations that apply to any other coverage under the plan, policy, or arrangement for services performed by participating and nonparticipating providers. Nothing in this section shall be construed as requiring reimbursement to a provider or facility providing the routine care that does not have a health care contract with the entity issuing the health benefit plan or public employee benefit plan, or as prohibiting the entity issuing a health benefit plan or public employee benefit plan that does not have a health care contract with the provider or facility providing the routine care from negotiating a single case or other agreement for coverage.

(C) As used in this section:

(1) "Eligible cancer clinical trial" means a cancer clinical trial that meets

all of the following criteria:

(a) A purpose of the trial is to test whether the intervention potentially improves the trial participant's health outcomes.

(b) The treatment provided as part of the trial is given with the intention of improving the trial participant's health outcomes.

(c) The trial has a therapeutic intent and is not designed exclusively to test toxicity or disease pathophysiology.

(d) The trial does one of the following:

(i) Tests how to administer a health care service, item, or drug for the treatment of cancer;

(ii) Tests responses to a health care service, item, or drug for the treatment of cancer;

(iii) Compares the effectiveness of a health care service, item, or drug for the treatment of cancer with that of other health care services, items, or drugs for the treatment of cancer;

(iv) Studies new uses of a health care service, item, or drug for the treatment of cancer.

(e) The trial is approved by one of the following entities:

(i) The national institutes of health or one of its cooperative groups or centers under the United States department of health and human services;

(ii) The United States food and drug administration;

(iii) The United States department of defense;

(iv) The United States department of veterans' affairs.

(2) "Subject of a cancer clinical trial" means the health care service, item, or drug that is being evaluated in the clinical trial and that is not routine patient care.

(3) "Health benefit plan" has the same meaning as in section 3924.01 of the Revised Code.

(4) "Routine patient care" means all health care services consistent with the coverage provided in the health benefit plan or public employee benefit plan for the treatment of cancer, including the type and frequency of any diagnostic modality, that is typically covered for a cancer patient who is not enrolled in a cancer clinical trial, and that was not necessitated solely because of the trial.

(5) For purposes of this section, a health benefit plan or public employee benefit plan may exclude coverage for any of the following:

(a) A health care service, item, or drug that is the subject of the cancer clinical trial;

(b) A health care service, item, or drug provided solely to satisfy data collection and analysis needs for the cancer clinical trial that is not used in

the direct clinical management of the patient;

(c) An investigational or experimental drug or device that has not been approved for market by the United States food and drug administration;

(d) Transportation, lodging, food, or other expenses for the patient, or a family member or companion of the patient, that are associated with the travel to or from a facility providing the cancer clinical trial;

(e) An item or drug provided by the cancer clinical trial sponsors free of charge for any patient;

(f) A service, item, or drug that is eligible for reimbursement by a person other than the insurer, including the sponsor of the cancer clinical trial.

Sec. 4717.01. As used in this chapter:

(A) "Embalming" means the preservation and disinfection, or attempted preservation and disinfection, of the dead human body by application of chemicals externally, internally, or both.

(B) "Funeral business" means a sole proprietorship, partnership, corporation, limited liability company, or other business entity that is engaged in funeral directing for profit or for free from one or more funeral homes licensed under this chapter.

(C) "Funeral directing" means the business or profession of directing or supervising funerals for profit, the arrangement or sale of funeral services, the filling out or execution of a funeral service contract, the business or profession of preparing dead human bodies for burial by means other than embalming, the disposition of dead human bodies, the provision or maintenance of a place for the preparation, the care, or disposition of dead human bodies, the use in connection with a business of the term "funeral director," "undertaker," "mortician," or any other term from which can be implied the business of funeral directing, or the holding out to the public that one is a funeral director or a disposer of dead human bodies.

(D) "Funeral home" means a fixed place for the care, preparation for burial, or disposition of dead human bodies or the conducting of funerals. Each business location is a funeral home, regardless of common ownership or management.

(E) "Embalmer" means a person who engages, in whole or in part, in embalming and who is licensed under this chapter.

(F) "Funeral director" means a person who engages, in whole or in part, in funeral directing and who is licensed under this chapter.

(G) "Final disposition" has the same meaning as in division (J) of section 3705.01 of the Revised Code.

(H) "Supervision" means the operation of all phases of the business of

funeral directing or embalming under the specific direction of a licensed funeral director or licensed embalmer.

(I) "Direct supervision" means the physical presence of a licensed funeral director or licensed embalmer while the specific functions of the funeral or embalming are being carried out.

(J) "Embalming facility" means a fixed location, separate from the funeral home, that is licensed under this chapter whose only function is the embalming and preparation of dead human bodies.

(K) "Crematory facility" means the physical location at which a cremation chamber is located and the cremation process takes place. "Crematory facility" does not include an infectious waste incineration facility for which a license is held under division (B) of section 3734.05 of the Revised Code, or a solid waste incineration facility for which a license is held under division (A) of that section that includes a notation pursuant to division (B)(3) of that section authorizing the facility to also treat infectious wastes, in connection with the incineration of body parts other than dead human bodies that were donated to science for purposes of medical education or research.

(L) "Crematory" means the building or portion of a building that houses the holding facility and the cremation chamber.

(M) "Cremation" means the technical process of using heat and flame to reduce human or animal remains to bone fragments or ashes or any combination thereof. "Cremation" includes processing and may include the pulverization of bone fragments.

(N) "Cremation chamber" means the enclosed space within which cremation takes place.

(O) "Cremated remains" means all human or animal remains recovered after the completion of the cremation process, which may include the residue of any foreign matter such as casket material, dental work, or eyeglasses that were cremated with the human or animal remains.

(P) "Lapsed license" means a license issued under this chapter that has become invalid because of the failure of the licensee to renew the license within the time limits prescribed under this chapter.

(Q) "Operator of a crematory facility" means the sole proprietorship, partnership, corporation, limited liability company, or other business entity responsible for the overall operation of a crematory facility.

(R) "Processing" means the reduction of identifiable bone fragments to unidentifiable bone fragments through manual or mechanical means after the completion of the cremation process.

(S) "Pulverization" means the reduction of identifiable bone fragments

to granulated particles by manual or mechanical means after the completion of the cremation process.

(T) "Preneed funeral contract" means a written agreement, contract, or series of contracts to sell or otherwise provide any funeral services, funeral goods, or any combination thereof to be used in connection with the funeral or final disposition of a dead human body, where payment for the goods or services is made either outright or on an installment basis, prior to the death of the person purchasing the goods or services or for whom the goods or services are purchased. "Preneed funeral contract" does not include any preneed cemetery merchandise and services contract or any agreement, contract, or series of contracts pertaining to the sale of any burial lot, burial or interment right, entombment right, or columbarium right with respect to which an endowment care fund is established or is exempt from establishment pursuant to section 1721.21 of the Revised Code.

For the purposes of division (T) of this section, "funeral goods" includes caskets.

(U) "Purchaser" means the individual who has purchased and financed a preneed funeral contract, and who may or may not be the contract beneficiary.

(V) "Contract beneficiary" means the individual for whom funeral goods and funeral services are provided pursuant to a preneed funeral contract.

(W) "Seller" means any person that enters into a preneed funeral contract with a purchaser for the provision of funeral goods, funeral services, or both.

Sec. 4717.03. (A) Members of the board of embalmers and funeral directors shall annually in July, or within thirty days after the senate's confirmation of the new members appointed in that year, meet and organize by selecting from among its members a president, vice-president, and secretary-treasurer. The board may hold other meetings as it determines necessary. A quorum of the board consists of four members, of whom at least three shall be members who are embalmers and funeral directors. The concurrence of at least four members is necessary for the board to take any action. The president and secretary-treasurer shall sign all licenses issued under this chapter and affix the board's seal to each license.

(B) The board may appoint an individual who is not a member of the board to serve as executive director of the board. The executive director serves at the pleasure of the board and shall do all of the following:

- (1) Serve as the board's chief administrative officer;
- (2) Act as custodian of the board's records;

(3) Execute all of the board's orders.

In executing the board's orders, the executive director may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a crematory facility in this state. The executive director may serve and execute any process issued by any court under this chapter.

(C) The board may employ clerical or technical staff who are not members of the board and who serve at the pleasure of the board to provide any clerical or technical assistance the board considers necessary. The board may employ necessary inspectors, who shall be licensed embalmers and funeral directors. Any inspector employed by the board may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a crematory facility in this state, for the purposes of inspecting the facility and premises; the license and registration of embalmers and funeral directors operating in the facility; and the license of the funeral home, embalming facility, or crematory. The inspector shall serve and execute any process issued by any court under this chapter, serve and execute any papers or process issued by the board or any officer or member of the board, and perform any other duties delegated by the board.

(D) The president of the board shall designate three of its members to serve on the crematory review board, which is hereby created, for such time as the president finds appropriate to carry out the provisions of this chapter. Those members of the crematory review board designated by the president to serve and three members designated by the cemetery dispute resolution commission shall designate, by a majority vote, one person who is experienced in the operation of a crematory facility and who is not affiliated with a cemetery or a funeral home to serve on the crematory review board for such time as the crematory review board finds appropriate. Members serving on the crematory review board shall not receive any additional compensation for serving on the board, but may be reimbursed for their actual and necessary expenses incurred in the performance of official duties as members of the board. Members of the crematory review board shall designate one from among its members to serve as a chairperson for such time as the board finds appropriate. Costs associated with conducting an adjudicatory hearing in accordance with division (E) of this section shall be paid from funds available to the board of embalmers and funeral directors.

(E) Upon receiving written notice from the board of embalmers and funeral directors of any of the following, the crematory review board shall conduct an adjudicatory hearing on the matter in accordance with Chapter 119. of the Revised Code, except as otherwise provided in this section or

division (C) of section 4717.14 of the Revised Code:

(1) Notice provided under division (H) of this section of an alleged violation of any provision of this chapter or any rules adopted under this chapter, ~~or section 1111.19 of the Revised Code~~, governing or in connection with crematory facilities or cremation;

(2) Notice provided under division (B) of section 4717.14 of the Revised Code that the board of embalmers and funeral directors proposes to refuse to grant or renew, or to suspend or revoke, a license to operate a crematory facility;

(3) Notice provided under division (C) of section 4717.14 of the Revised Code that the board of embalmers and funeral directors has issued an order summarily suspending a license to operate a crematory facility;

(4) Notice provided under division (B) of section 4717.15 of the Revised Code that the board of embalmers and funeral directors proposes to issue a notice of violation and order requiring payment of a forfeiture for any violation described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in connection with a crematory facility or cremation.

Nothing in division (E) of this section precludes the crematory review board from appointing an independent examiner in accordance with section 119.09 of the Revised Code to conduct any adjudication hearing required under division (E) of this section.

The crematory review board shall submit a written report of findings and advisory recommendations, and a written transcript of its proceedings, to the board of embalmers and funeral directors. The board of embalmers and funeral directors shall serve a copy of the written report of the crematory review board's findings and advisory recommendations on the party to the adjudication or the party's attorney, by certified mail, within five days after receiving the report and advisory recommendations. A party may file objections to the written report with the board of embalmers and funeral directors within ten days after receiving the report. No written report is final or appealable until it is issued as a final order by the board of embalmers and funeral directors and entered on the record of the proceedings. The board of embalmers and funeral directors shall consider objections filed by the party prior to issuing a final order. After reviewing the findings and advisory recommendations of the crematory review board, the written transcript of the crematory review board's proceedings, and any objections filed by a party, the board of embalmers and funeral directors shall issue a final order in the matter. Any party may appeal the final order issued by the board of embalmers and funeral directors in a matter described in divisions

(E)(1) to (4) of this section in accordance with section 119.12 of the Revised Code, except that the appeal may be made to the court of common pleas in the county in which is located the crematory facility to which the final order pertains, or in the county in which the party resides.

(F) On its own initiative or on receiving a written complaint from any person whose identity is made known to the board of embalmers and funeral directors, the board shall investigate the acts or practices of any person holding or claiming to hold a license or registration under this chapter that, if proven to have occurred, would violate this chapter or any rules adopted under it, ~~or section 1111.19 of the Revised Code~~. The board may compel witnesses by subpoena to appear and testify in relation to investigations conducted under this chapter and may require by subpoena duces tecum the production of any book, paper, or document pertaining to an investigation. If a person does not comply with a subpoena or subpoena duces tecum, the board may apply to the court of common pleas of any county in this state for an order compelling the person to comply with the subpoena or subpoena duces tecum, or for failure to do so, to be held in contempt of court.

(G) If, as a result of its investigation conducted under division (F) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter, ~~or section 1111.19 of the Revised Code~~, governing or in connection with embalming, funeral directing, funeral homes, embalming facilities, or the operation of funeral homes or embalming facilities, it may, after providing the opportunity for an adjudicatory hearing, issue an order directing the person to cease the acts or practices that constitute the violation. The board shall conduct the adjudicatory hearing in accordance with Chapter 119. of the Revised Code except that, notwithstanding the provisions of that chapter, the following shall apply:

(1) The board shall send the notice informing the person of the person's right to a hearing by certified mail.

(2) The person is entitled to a hearing only if the person requests a hearing and if the board receives the request within thirty days after the mailing of the notice described in division (G)(1) of this section.

(3) A stenographic record shall be taken, in the manner prescribed in section 119.09 of the Revised Code, at every adjudicatory hearing held under this section, regardless of whether the record may be the basis of an appeal to a court.

(H) If, as a result of its investigation conducted under division (F) of this section, the board of embalmers and funeral directors has reasonable

cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter, ~~or section 1111.19 of the Revised Code~~, governing or in connection with crematory facilities or cremation, the board shall send written notice of the alleged violation to the crematory review board. If, after the conclusion of the adjudicatory hearing in the matter conducted under division (E) of this section, the board of embalmers and funeral directors finds that a person is in violation of any provision of this chapter or any rules adopted under this chapter, ~~or section 1111.19 of the Revised Code~~, governing or in connection with crematory facilities or cremation, the board may issue a final order under that division directing the person to cease the acts or practices that constitute the violation.

(I) The board of embalmers and funeral directors may bring a civil action to enjoin any violation or threatened violation of ~~section 1111.19~~; sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; ~~or~~ divisions (A) to (C) of section 4717.28, or division (D) or (E) of section 4717.31 of the Revised Code. The action shall be brought in the county where the violation occurred or the threatened violation is expected to occur. At the request of the board, the attorney general shall represent the board in any matter arising under this chapter.

(J) The board of embalmers and funeral directors and the crematory review board may issue subpoenas for funeral directors and embalmers or persons holding themselves out as such, for operators of crematory facilities or persons holding themselves out as such, or for any other person whose testimony, in the opinion of either board, is necessary. The subpoena shall require the person to appear before the appropriate board or any designated member of either board, upon any hearing conducted under this chapter. The penalty for disobedience to the command of such a subpoena is the same as for refusal to answer such a process issued under authority of the court of common pleas.

(K) All moneys received by the board of embalmers and funeral directors from any source shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code.

(L) The board of embalmers and funeral directors shall submit a written report to the governor on or before the first Monday of July of each year. This report shall contain a detailed statement of the nature and amount of the

board's receipts and the amount and manner of its expenditures.

Sec. 4717.13. (A) No person shall do any of the following:

(1) Engage in the business or profession of funeral directing unless the person is licensed as a funeral director under this chapter, is certified as an apprentice funeral director in accordance with rules adopted under section 4717.04 of the Revised Code and is assisting a funeral director licensed under this chapter, or is a student in a college of mortuary sciences approved by the board and is under the direct supervision of a funeral director licensed by the board;

(2) Engage in embalming unless the person is licensed as an embalmer under this chapter, is certified as an apprentice embalmer in accordance with rules adopted under section 4717.04 of the Revised Code and is assisting an embalmer licensed under this chapter, or is a student in a college of mortuary science approved by the board and is under the direct supervision of an embalmer licensed by the board;

(3) Advertise or otherwise offer to provide or convey the impression that the person provides funeral directing services unless the person is licensed as a funeral director under this chapter and is employed by or under contract to a licensed funeral home and performs funeral directing services for that funeral home in a manner consistent with the advertisement, offering, or conveyance;

(4) Advertise or otherwise offer to provide or convey the impression that the person provides embalming services unless the person is licensed as an embalmer under this chapter and is employed by or under contract to a licensed funeral home or a licensed embalming facility and performs embalming services for the funeral home or embalming facility in a manner consistent with the advertisement, offering, or conveyance;

(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;

(6) Practice the business or profession of funeral directing from any place except from a funeral home that a person is licensed to operate under this chapter;

(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;

(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;

(9) Cremate animals in a cremation chamber in which dead human bodies or body parts are cremated or cremate dead human bodies or human body parts in a cremation chamber in which animals are cremated.

(B) No funeral director or other person in charge of the final disposition

of a dead human body shall fail to do one of the following prior to the interment of the body:

(1) Affix to the ankle or wrist of the deceased a tag encased in a durable and long-lasting material that contains the name, date of birth, date of death, and social security number of the deceased;

(2) Place in the casket a capsule containing a tag bearing the information described in division (B)(1) of this section;

(3) If the body was cremated, place in the vessel containing the cremated remains a tag bearing the information described in division (B)(1) of this section.

(C) No person who holds a funeral home license for a funeral home that is closed, or that is owned by a funeral business in which changes in the ownership of the funeral business result in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership, shall fail to submit to the board within thirty days after the closing or such a change in ownership of the funeral business owning the funeral home, a clearly enumerated account of all of the following from which the licensee, at the time of the closing or change in ownership of the funeral business and in connection with the funeral home, was to receive payment for providing funeral services, funeral goods, or any combination of those in connection with the funeral or final disposition of a dead human body:

(1) Preneed funeral contracts governed by ~~section 1111.19~~ sections 4717.31 to 4717.38 of the Revised Code;

(2) Life insurance policies or annuities the benefits of which are payable to the provider of funeral or burial goods or services;

(3) Accounts at banks or savings banks insured by the federal deposit insurance corporation, savings and loan associations insured by the federal savings and loan insurance corporation or the Ohio deposit guarantee fund, or credit unions insured by the national credit union administration or a credit union share guaranty corporation organized under Chapter 1761. of the Revised Code that are payable upon the death of the person for whose benefit deposits into the accounts were made.

Sec. 4717.14. (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license issued under this chapter for any of the following reasons:

(1) The license was obtained by fraud or misrepresentation either in the application or in passing the examination.

(2) The applicant or licensee has been convicted of or has pleaded guilty

to a felony or of any crime involving moral turpitude.

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant or licensee has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant or licensee has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant or licensee has refused to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body.

(8) The licensee loaned the licensee's own license, or the applicant or licensee borrowed or used the license of another person, or knowingly aided or abetted the granting of an improper license.

(9) The applicant or licensee transferred a license to operate a funeral home, embalming facility, or crematory from one owner or operator to another, or from one location to another, without notifying the board.

(10) The applicant or licensee misled the public by using false or deceptive advertising.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke, an embalmer's, funeral director's, funeral home, or embalming facility license only in accordance with Chapter 119. of the Revised Code.

(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or proposes to suspend or revoke, a license to operate a crematory facility. If, after the conclusion of the adjudicatory hearing on the matter conducted under division (E) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the person named in its proposed action, the

board may issue a final order under division (E) of section 4717.03 of the Revised Code refusing to issue or renew, or suspending or revoking, the person's license to operate a crematory facility.

(C) If the board of embalmers and funeral directors determines that there is clear and convincing evidence that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the holder of a license issued under this chapter and that the licensee's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the licensee's license without a prior adjudicatory hearing. The executive director of the board shall prepare written allegations for consideration by the board.

The board, after reviewing the written allegations, may suspend a license without a prior hearing.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. Such an order is not subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the holder of an embalmer's, funeral director's, funeral home, or embalming facility license requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the licensee has requested a hearing, unless the board and the licensee agree to a different time for holding the hearing.

Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (E) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (E) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the

summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) If the board of embalmers and funeral directors suspends or revokes a license held by a funeral director or a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court of common pleas in the county where the violation occurred requesting appointment of a receiver and the sequestration of the assets of the funeral home that held the suspended or revoked license or the licensed funeral home that employs the funeral director that held the suspended or revoked license. If the court of common pleas is satisfied with the application for a receivership, the court may appoint a receiver.

The board or a receiver may employ and procure whatever assistance or advice is necessary in the receivership or liquidation and distribution of the assets of the funeral home, and, for that purpose, may retain officers or employees of the funeral home as needed. All expenses of the receivership or liquidation shall be paid from the assets of the funeral home and shall be a lien on those assets, and that lien shall be a priority to any other lien.

(E) Any holder of a license issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. The board shall notify the suspended individual of the suspension of the individual's license by the operation of this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

~~(E)~~(F) No person whose license has been suspended or revoked under or by the operation of this section shall practice embalming or funeral directing or operate a funeral home, embalming facility, or crematory facility until the

board has reinstated the person's license.

Sec. 4717.31. (A) Only a funeral director licensed pursuant to this chapter may sell a preneed funeral contract that includes funeral services. Sections 4717.31 to 4717.38 of the Revised Code do not prohibit a person who is not a licensed funeral director from selling funeral goods pursuant to a preneed funeral contract; however, when a seller sells funeral goods pursuant to a preneed funeral contract, that seller shall comply with those sections unless the seller is specifically exempt from compliance under section 4717.38 of the Revised Code.

(B) An insurance agent licensed pursuant to Chapter 3905. of the Revised Code may sell, solicit, or negotiate the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, but in so doing the insurance agent may not offer advice or make recommendations about funeral services and may not discuss the advantages or disadvantages of any funeral service. In selling, soliciting, or negotiating the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, the insurance agent may do any of the following:

(1) Provide the person purchasing the insurance policy or annuity with price lists from one or more funeral homes and other materials that may assist the person in determining the cost of funeral goods and services;

(2) Discuss the cost of funeral goods and services with the person in order to assist the person in selecting the appropriate amount of life insurance or annuity coverage;

(3) Complete a worksheet or other record to calculate the estimated cost of a funeral.

(C) Activities conducted pursuant to division (B) of this section by an insurance agent licensed pursuant to Chapter 3905. of the Revised Code do not constitute funeral directing, funeral arranging, the business of directing and supervising funerals for profit, or the sale of a preneed funeral contract.

(D) No seller shall fail to comply with the requirements and duties specified in this section and sections 4717.32 to 4717.38 of the Revised Code.

(E) No trustee of a preneed funeral contract trust shall fail to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of the Revised Code.

(F) No insurance agent or insurance company that sells or offers life insurance policies or annuities used to fund a preneed funeral contract shall fail to comply with this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code. To the extent this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code apply to insurance companies or insurance agents, those sections constitute laws of

this state relating to insurance for purposes of sections 3901.03 and 3901.04 of the Revised Code and the superintendent of insurance shall enforce those sections with respect to insurance companies and insurance agents. The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of administering and enforcing this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code as those sections apply to insurance companies or insurance agents.

(G) A preneed funeral contract may be funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code. A preneed funeral contract that is funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code is not subject to section 4717.36 of the Revised Code.

(H) The board of embalmers and funeral directors shall administer and enforce the provisions of sections 4717.31 to 4717.38 of the Revised Code concerning the requirements for and sale of preneed funeral contracts. The superintendent of insurance shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code to the extent those sections apply to insurance companies and insurance agents. Payments from a trust, insurance policy, or annuity, including any fraudulent activities in which a person engages to obtain payments from a trust, insurance policy, or annuity, shall be regulated in accordance with Chapter 1111. or Title XXXIX of the Revised Code, as applicable.

(I) A seller of a preneed funeral contract that is funded by insurance or otherwise annually shall submit to the board the reports the board requires pursuant to division (J) of this section.

(J) The board shall adopt rules specifying the procedures and requirements for annual reporting of the sales of all preneed funeral contracts sold by every seller who is subject to sections 4717.31 to 4717.38 of the Revised Code.

Sec. 4717.32. (A) Any preneed funeral contract that involves the payment of money or the purchase or assignment of an insurance policy or annuity shall be in writing and shall include all of the following information:

(1) The name, address, and phone number of the seller and the name and address of the purchaser of the contract, and, if the contract beneficiary is someone other than the purchaser of the contract, the name and address of the contract beneficiary, and if the contract involves the payment of money but not the purchase or assignment of an insurance policy or annuity, the social security number of the purchaser of the contract or if the contract beneficiary is someone other than the purchaser, the social security number

of the contract beneficiary:

(2) A statement of the funeral goods and funeral services purchased, which disclosure may be made by attaching a copy of the completed statement of funeral goods and services selected to the preneed funeral contract;

(3) A disclosure informing the purchaser whether the contract is either a guaranteed preneed funeral contract or a nonguaranteed preneed funeral contract, and, if the contract is guaranteed only in part, a disclosure specifying the funeral goods or funeral services included in the guarantee;

(4) If the preneed funeral contract is a guaranteed contract, a disclosure that the seller, in exchange for all of the proceeds of the trust, insurance policy, or annuity, shall provide the funeral goods and funeral services set forth in the preneed funeral contract without regard to the actual cost of such funeral goods and funeral services prevailing at the time of performance and that the seller may receive any excess funds remaining after all expenses for the funeral have been paid.

(5) If the preneed funeral contract is a nonguaranteed contract, a disclosure that the proceeds of the trust, insurance policy, or annuity shall be applied to the retail prices in effect at the time of the funeral for the funeral goods and funeral services set forth in the contract, that any excess funds remaining after all expenses for the funeral have been paid shall be paid to the estate of the decedent or the beneficiary named in the life insurance policy if the preneed funeral contract is funded by a life insurance policy, and that, in the event of an insufficiency in funds, the seller shall not be required to perform until payment arrangements satisfactory to the seller have been made.

(6) A disclosure that the purchaser has the right to make the contract irrevocable and that if the preneed funeral contract is irrevocable, the purchaser does not have a right to revoke the contract;

(7) A disclosure informing the purchaser of the initial right to cancel the preneed funeral contract within seven days as provided in division (A) of section 4717.34 of the Revised Code and the right to revoke a revocable preneed funeral contract in accordance with section 4717.35 or division (E) of section 4717.36 of the Revised Code, as applicable;

(8) A disclosure that the seller may substitute funeral goods or funeral services of equal quality, value, and workmanship if those specified in the preneed funeral contract are unavailable at the time of need;

(9) A disclosure that any purchaser of funeral goods and funeral services is entitled to receive price information prior to making that purchase in accordance with the federal trade commission's funeral industry practices

revised rule, 16 C.F.R. part 453:

(10) The following notice in boldface print and in substantially the following form:

"NOTICE: Under Ohio law, the person holding the right of disposition of the remains of the individual contract beneficiary pursuant to section 2108.70 or 2108.81 of the Revised Code will have the right to make funeral arrangements inconsistent with the arrangements set forth in this contract. However, the individual contract beneficiary is encouraged to state his or her preferences as to funeral arrangements in a declaration of the right of disposition pursuant to section 2108.72 of the Revised Code, including that the arrangements set forth in this contract shall be followed."

(11) The notice described in division (A) of section 4717.34 of the Revised Code.

(B) If a preneed funeral contract is funded by any means other than an insurance policy or policies, or an annuity or annuities, the preneed funeral contract shall include all of the following information in addition to the information required to be included under division (A) of this section:

(1) Disclosures identifying the name and address of the trustee of the preneed funeral contract trust established pursuant to section 4717.36 of the Revised Code, indicating whether fees, expenses, or taxes will be deducted from the trust, and a statement of who will be responsible for the taxes owed on the trust earnings;

(2) A disclosure explaining the form in which the purchase price must be paid and, if the price is to be paid in installments, a disclosure to the purchaser regarding what constitutes a default under the preneed funeral contract and the consequences of the default;

(3) The following notice in boldface print and in substantially the following form:

"NOTICE: You, as the purchaser of this contract, will be notified in writing when the trustee of this contract has received a deposit of the funds you paid the seller under this contract. If you do not receive that notice within sixty days after the date you paid the funds to the seller, you should contact the trustee identified in the contract."

(4) A disclosure that a purchaser of a preneed funeral contract that is irrevocable and that stipulates a firm or fixed or guaranteed price for the funeral services and goods to be provided under the preneed funeral contract may be charged a transfer fee as specified in division (F) of section 4717.36 of the Revised Code if the purchaser wishes to transfer the contract to another seller.

(C) If a preneed funeral contract is funded by the purchase or

assignment of one or more insurance policies or annuities, the preneed funeral contract shall include all of the following information in addition to the information required to be included under division (A) of this section:

(1) The name and address of each applicable insurance company and any right the purchaser has regarding canceling or transferring the applicable insurance policies or annuities;

(2) A description of the terms of payment for any remaining payments due if the funding is to be paid in installments;

(3) A list of actions that constitute default under a preneed funeral contract and the consequences of a default;

(4) The following notice in boldface print and in substantially the following form:

"NOTICE: You, as the purchaser of this contract, will be notified in writing by the insurance company identified in this contract when the insurance policy or policies, or annuity or annuities, that will fund this contract have been issued. If you do not receive the notice within sixty days after the date you paid the funds to the seller, you should contact the insurance company identified in the contract."

(D) The seller of a preneed funeral contract that is funded by the purchase or assignment of one or more insurance policies or annuities does not need to include in the contract the information described in divisions (C)(2) and (3) of this section if those disclosures are provided in the application for a life insurance policy or annuity or in the life insurance policy or annuity.

Sec. 4717.33. (A) If a preneed funeral contract is funded by any means other than an insurance policy or policies, or an annuity or annuities, the trustee of the trust created pursuant to section 4717.36 of the Revised Code shall notify the purchaser of the preneed funeral contract in writing, within fifteen days after the trustee receives any payment to be deposited into the trust, that the trustee has received payment. The notice shall include all of the following information:

(1) The amount the trustee received;

(2) The name and address of the institution described in division (B) of section 4717.36 of the Revised Code where the trust is being held;

(3) The name of the beneficiary of that trust.

(B) If a preneed funeral contract is funded by the purchase or assignment of one or more insurance policies or annuities, the insurance company shall notify the purchaser of the preneed funeral contract in writing within sixty days after the insurance company receives an initial premium payment applicable to that preneed funeral contract. The notice shall include

all of the following information that is pertinent to that preneed funeral contract:

- (1) The amount the insurance company received;
- (2) The name and address of the insurance company;
- (3) The name of the insured;
- (4) The amount of the death benefit;
- (5) The policy or contract number of the insurance policy, annuity, or contract.

(C) For purposes of division (B) of this section, delivery of an insurance policy, certificate, annuity, or contract to the purchaser shall satisfy the notice requirement specified in that division.

Sec. 4717.34. (A) Any purchaser, on initially entering into a preneed funeral contract may, within seven days after entering into that contract, rescind the contract and request and receive from the seller of the contract one hundred per cent of all payments made under the contract. Each preneed funeral contract shall contain the following notice in boldface print and in substantially the following form:

"NOTICE: Under Ohio law, you, as the purchaser of this contract, may rescind it and receive a refund of all payments you made under the contract. To rescind the contract, you must notify the seller within seven days of signing the contract."

(B) No preneed funeral contract shall contain a provision that restricts the purchaser from making the contract irrevocable. On the purchase by an individual of an irrevocable preneed funeral contract, the funeral director who sold the contract assumes the legal obligation to provide for the funeral of the individual pursuant to the terms of the contract. No money deposited in a trust fund for an irrevocable preneed funeral contract shall be withdrawn to purchase an insurance policy or annuity, except that a trustee may use money in the trust fund to purchase a life insurance policy or annuity as an investment for the trust fund.

Sec. 4717.35. If a preneed funeral contract contains a provision stating that the preneed funeral contract will be funded by the purchase of an insurance policy, the insurance agent who sold the policy that will fund that preneed funeral contract shall remit the application for insurance and the premium paid to the insurance company designated in the preneed funeral contract within the time period specified in division (B)(15) of section 3905.14 of the Revised Code, unless the purchaser rescinds the preneed funeral contract in accordance with division (A) of section 4717.34 of the Revised Code.

If the purchaser of a preneed funeral contract that is revocable and that

is funded by an insurance policy or annuity elects to cancel the preneed funeral contract, the purchaser shall provide a written notice to the seller and the insurance company designated in the contract stating that the purchaser intends to cancel that contract. Fifteen days after the purchaser provides the notice to the seller of the contract and the insurance company, the purchaser may cancel the preneed funeral contract and change the beneficiary of the insurance policy or annuity or reassign the benefits under the policy or annuity.

The purchaser of a preneed funeral contract that is irrevocable and that is funded by an insurance policy or annuity may transfer the preneed funeral contract to a successor seller by notifying the original seller of the designation of a successor seller. Within fifteen days after receiving the written notice of the designation of the successor seller from the purchaser, the original seller shall assign the seller's rights to the proceeds of the policy to the successor seller. The insurance company shall confirm the change of assignment by providing written notice to the policyholder.

Sec. 4717.36. (A) This section applies only to preneed funeral contracts that are funded by any means other than an insurance policy or policies, or an annuity or annuities.

One hundred per cent of all payments for funeral goods and funeral services made under a preneed funeral contract shall remain intact and held in trust in accordance with this section for the benefit of the contract beneficiary. No money in a preneed funeral contract trust shall be distributed from the trust except as provided in this section. Within thirty days after the provider of the funeral goods or funeral services receives any payment under a preneed funeral contract, the seller of the preneed funeral contract shall deliver the moneys received for that preneed funeral contract that have not been returned to the purchaser as provided in division (A) of section 4717.34 of the Revised Code to the trustee designated in the preneed funeral contract.

(B) The seller shall establish a preneed funeral contract trust at one of the following types of institutions and shall designate that institution as the trustee of the preneed funeral contract trust:

(1) A trust company licensed under Chapter 1111. of the Revised Code;

(2) A national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code;

(3) A credit union authorized to conduct business in this state pursuant to Chapter 1733. of the Revised Code.

(C) Moneys deposited in a preneed funeral contract trust fund shall be

held and invested in the manner in which trust funds are permitted to be held and invested pursuant to Chapter 1111. of the Revised Code.

(D) The seller shall establish a separate preneed funeral contract trust for the moneys paid under each preneed funeral contract, unless the purchaser or purchasers of a preneed funeral contract or contracts authorize the seller to place the moneys paid for that contract or those contracts in a combined preneed funeral contract trust. The trustee of a combined preneed funeral contract trust shall keep exact records of the corpus, income, expenses, and disbursements with regard to each purchaser and contract beneficiary for whom moneys are held in the trust. The terms of a preneed funeral contract trust are governed by this section and the payments from that trust are governed by Chapter 1111. of the Revised Code, except as otherwise provided in this section.

A trustee of a preneed funeral contract trust may pay taxes and expenses for a preneed funeral contract trust and may charge a fee for managing a preneed funeral contract trust. The fee shall not exceed the amount regularly or usually charged for similar services rendered by the institutions described in division (B) of this section when serving as a trustee. The taxes, expenses, and fees shall be paid only from the accumulated income on that trust.

(E) If the purchaser of a preneed funeral contract that is revocable elects to cancel the contract, the purchaser shall provide a written notice to the seller of the contract and the trustee of the preneed funeral contract trust stating that the purchaser intends to cancel the contract. Fifteen days after the purchaser provides that notice to the seller and trustee, the purchaser may cancel the contract. Upon canceling a preneed funeral contract pursuant to this division, one of the following shall occur, as applicable:

(1) If the preneed funeral contract does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, the trustee shall give to the purchaser all of the assets of the trust that exist at the time of cancellation, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (D) of this section.

(2) If the preneed funeral contract does stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the contract, the purchaser may request and receive from the trustee all of the assets of the trust at the time of cancellation, less a cancellation fee that the original seller may collect from the trustee that is equal to or less than ten per cent of the value of the assets of the trust on the date the trust is cancelled and less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (D) of this section.

If more than one purchaser enters into the contract, all of those purchasers must request cancellation of the contract for it to be effective under this division, and the trustee shall refund to each purchaser only those funds that purchaser has paid under the contract and any income earned on those funds in an amount that is in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments deposited in that trust, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (D) of this section, the amount of which are in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments deposited in that trust.

(F) The purchaser of a preneed funeral contract that is irrevocable may transfer the preneed funeral contract to a successor seller. A purchaser who elects to make such a transfer shall provide a written notice of the designation of a successor seller to the trustee and the original seller. Within fifteen days after receiving the written notice of the new designation from the purchaser, the trustee shall list the successor seller as the seller of the preneed funeral contract and the original seller shall relinquish and transfer all rights under the preneed funeral contract to the successor seller. The trustee shall confirm the transfer by providing written notice of the transfer to the original seller, the successor seller, and the purchaser. If the preneed funeral contract stipulates a firm or fixed or guaranteed price for the funeral goods and funeral services to be provided under the preneed funeral contract, the original seller may collect from the trustee a transfer fee from the trust that equals up to ten per cent of the value of the assets of the trust on the date the trust is transferred. If the preneed funeral contract does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no transfer fee shall be collected by the original seller.

(G) If a seller of a preneed funeral contract elects to transfer a preneed funeral contract trust from an institution listed in divisions (B)(1) to (3) of this section to a different institution, the trustee of the original trust shall notify the purchaser of the preneed funeral contract of that transfer in writing within thirty days after the transfer occurred and shall provide the purchaser with the name of and the contact information for the institution where the new trust is maintained. Upon receipt of the trust, the trustee of the transferred trust shall notify the purchaser of the receipt of the trusts in accordance with division (A) of section 4717.33 of the Revised Code.

(H) If a seller receives a notice that the contract beneficiary has died and that funeral goods and funeral services have been provided by a provider other than the seller, except as otherwise specified in this section, the seller

shall direct the trustee, within thirty days after receiving that notice, to pay to the contract beneficiary all funds held by the trustee, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (D) of this section. In the event the preneed funeral contract stipulates a firm or fixed or guaranteed price for funeral goods and funeral services that were to be provided under the preneed funeral contract, the seller may collect from the trustee a cancellation fee not exceeding ten per cent of the value of the assets of the trust on the date the trust is transferred. If the preneed funeral trust does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no cancellation fees shall be collected by the original seller.

(I) A certified copy of the certificate of death or other evidence of death satisfactory to the trustee shall be furnished to the trustee as evidence of death, and the trustee shall promptly pay the accumulated payments and income, if any, according to the preneed funeral contract. Such payment of the accumulated payments and income pursuant to this section and, when applicable, the preneed funeral contract, relieves the trustee of any further liability on the accumulated payments and income.

Sec. 4717.37. For purposes of sections 4717.31 to 4717.38 of the Revised Code, a seller is considered to have delivered funeral goods pursuant to a preneed funeral contract when the seller makes actual delivery of the goods to the contract beneficiary.

Sec. 4717.38. Sections 4717.31 to 4717.38 of the Revised Code shall be construed as a limitation on the manner in which a person is permitted to accept funds in prepayment for funeral services to be performed in the future, or funeral goods to be used in connection with the funeral or final disposition of human remains, to the end that at all times members of the public may have an opportunity to arrange and pay for a funeral for themselves and their families in advance of need while at the same time providing all possible safeguards to ensure that prepaid funds cannot be dissipated, whether intentionally or not, but remain available for payment for funeral goods and funeral services in connection with the funeral or final disposition of dead human bodies.

Sections 4717.31 to 4717.38 of the Revised Code do not apply to a seller if that seller is an established and legally cognizable church or denomination that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and the preneed funeral contract pertains to a cemetery owned and operated entirely and exclusively by the church or denomination.

on the condition that the church or denomination adopts, on a voluntary basis, rules and other measures to safeguard and secure all funds received under any preneed funeral contract.

Any money, insurance policies, annuities, or other items delivered in payment of a preneed funeral contract, and any funds held in trust pursuant to section 4717.36 of the Revised Code, are exempt from levy, attachment, or sale to satisfy a judgment or order.

Sec. 4717.99. Whoever violates any provision of sections 4717.01 to 4717.15; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code shall be fined not less than one hundred nor more than five thousand dollars, or imprisoned for not more than one year, or both, for the first offense. For each subsequent offense such a person shall be fined not less than one hundred nor more than ten thousand dollars, or imprisoned for not more than one year, or both.

Whoever purposely violates division (D) or (E) of section 4717.31 of the Revised Code is guilty of a misdemeanor of the third degree. If the purpose of a violation of that division is to commit or facilitate the commission of a felony, whoever violates that division is guilty of a felony of the fourth degree.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

(1) For taxable years beginning in 2004:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS

(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

	TAX
\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

(2) For taxable years beginning in 2005:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

	TAX
\$5,000 or less	.712%
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000
More than \$15,000 but not more	\$249.15 plus 3.559% of the

than \$20,000	amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000

(3) For taxable years beginning in 2006:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME
(ESTATES)

TAX

\$5,000 or less	.681%
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000

(4) For taxable years beginning in 2007:

OHIO ADJUSTED GROSS

INCOME LESS EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.649%
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000

(5) For taxable years beginning in 2008:

OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.618%
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000

More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000

(6) For taxable years beginning in 2009 or thereafter:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

TAX

\$5,000 or less	.587%
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000

In July of each year, beginning in 2010, the tax commissioner shall

adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002 or thereafter.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A nonresident trust may claim a credit against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the nonresident trust's modified nonbusiness income, other than the portion of the nonresident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the nonresident trust's modified nonbusiness income other than the portion of the nonresident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to ~~section 1111.19~~ sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

SECTION 2. That existing sections 1151.345, 1161.59, 1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3901.21, 3905.451, 3923.80, 4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 and sections 1111.19 and 1111.99 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act, except for section 3923.80 of the Revised Code, shall take effect ninety days after the effective date of this act. Section 3923.80 of the Revised Code, as amended by this act, shall take effect at the earliest time permitted by law.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 196

127th G.A.

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

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____