

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 196

Senator Schaffer

Cosponsors: Senators Carey, Cates, Schuler

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A B I L L

To amend sections 1151.345, 1161.59, 1733.51, 1
2108.81, 2117.251, 3103.03, 3905.451, 4717.01, 2
4717.03, 4717.04, 4717.13, 4717.99, and 5747.02, 3
to enact sections 4717.31 and 4717.32, and to 4
repeal sections 1111.19 and 1111.99 of the Revised 5
Code to revise the Preneed Funeral Contract Law. 6

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

Section 1. That sections 1151.345, 1161.59, 1733.51, 2108.81, 7
2117.251, 3103.03, 3905.451, 4717.01, 4717.03, 4717.04, 4717.13, 8
4717.99, and 5747.02 be amended and sections 4717.31 and 4717.32 9
of the Revised Code be enacted to read as follows: 10

Sec. 1151.345. A savings and loan association, in accordance 11
with sections ~~1111.19~~ and 1721.211 and 4717.31 of the Revised 12
Code, may receive and hold on deposit moneys under a preneed 13
funeral contract or a preneed cemetery merchandise and services 14
contract. 15

Sec. 1161.59. In accordance with sections ~~1111.19~~ and 16
1721.211 and 4717.31 of the Revised Code, a savings bank may 17
receive and hold on deposit moneys under a preneed funeral 18

contract or a preneed cemetery merchandise and services contract. 19

Sec. 1733.51. A credit union may, subject to sections ~~1111.19~~ 20
~~and~~ 1721.211 and 4717.31 of the Revised Code, receive and hold on 21
deposit moneys under a preneed funeral contract or preneed 22
cemetery merchandise and services contract. 23

Sec. 2108.81. (A) If either of the following is true, 24
division (B) of this section shall apply: 25

(1) An adult has not executed a written declaration pursuant 26
to sections 2108.70 to 2108.73 of the Revised Code that remains in 27
force at the time of the adult's death. 28

(2) Each person to whom the right of disposition has been 29
assigned or reassigned pursuant to a written declaration is 30
disqualified from exercising the right as described in section 31
2108.75 of the Revised Code. 32

(B) Subject to division (A) of this section and sections 33
2108.75 and 2108.79 of the Revised Code, the right of disposition 34
is assigned to the following persons, if mentally competent adults 35
who can be located with reasonable effort, in the order of 36
priority stated: 37

(1) The deceased person's surviving spouse; 38

(2) The sole surviving child of the deceased person or, if 39
there is more than one surviving child, all of the surviving 40
children, collectively; 41

(3) The deceased person's surviving parent or parents; 42

(4) The deceased person's surviving sibling, whether of the 43
whole or of the half blood or, if there is more than one sibling 44
of the whole or of the half blood, all of the surviving siblings, 45
collectively; 46

(5) The deceased person's surviving grandparent or 47

grandparents; 48

(6) The deceased person's surviving grandchild, or if there 49
is more than one surviving grandchild, all of the surviving 50
grandchildren collectively; 51

(7) The lineal descendants of the deceased person's 52
grandparents, as described in division (I) of section 2105.06 of 53
the Revised Code; 54

~~(7)~~(8) The person who was the deceased person's guardian at 55
the time of the deceased person's death, if a guardian had been 56
appointed; 57

~~(8)~~(9) Any other person willing to assume the right of 58
disposition, including the personal representative of the deceased 59
person's estate or the licensed funeral director with custody of 60
the deceased person's body, after attesting in writing that a good 61
faith effort has been made to locate the persons in divisions 62
(B)(1) to (7) of this section. 63

(10) If the deceased person was an indigent person or other 64
person the final disposition of whose body is the responsibility 65
of the state or a political subdivision of this state, the public 66
officer or employee responsible for arranging the final 67
disposition of the remains or the deceased person. 68

Sec. 2117.251. A claim under the bill of a funeral director 69
pursuant to section 2117.25 of the Revised Code arises subsequent 70
to the death of the decedent and is not in satisfaction of a 71
personal obligation of the individual during the individual's 72
lifetime. If a decedent during the decedent's lifetime has 73
purchased an irrevocable preneed funeral contract pursuant to 74
section ~~1111.19~~ 4717.31 of the Revised Code, then those provisions 75
of section 2117.25 of the Revised Code that relate to the bill of 76
a funeral director, including divisions (A) and (B) of that 77

section, do not apply to the estate of the decedent and the estate 78
is not liable for the funeral expenses of the decedent. 79

Sec. 3103.03. (A) Each married person must support the 80
person's self and spouse out of the person's property or by the 81
person's labor. If a married person is unable to do so, the spouse 82
of the married person must assist in the support so far as the 83
spouse is able. The biological or adoptive parent of a minor child 84
must support the parent's minor children out of the parent's 85
property or by the parent's labor. 86

(B) Notwithstanding section 3109.01 of the Revised Code and 87
to the extent provided in section ~~3319.86~~ 3119.86 of the Revised 88
Code, the parental duty of support to children shall continue 89
beyond the age of majority as long as the child continuously 90
attends on a full-time basis any recognized and accredited high 91
school. That duty of support shall continue during seasonal 92
vacation periods. 93

(C) If a married person neglects to support the person's 94
spouse in accordance with this section, any other person, in good 95
faith, may supply the spouse with necessaries for the support of 96
the spouse and recover the reasonable value of the necessaries 97
supplied from the married person who neglected to support the 98
spouse unless the spouse abandons that person without cause. 99

(D) If a parent neglects to support the parent's minor child 100
in accordance with this section and if the minor child in question 101
is unemancipated, any other person, in good faith, may supply the 102
minor child with necessaries for the support of the minor child 103
and recover the reasonable value of the necessaries supplied from 104
the parent who neglected to support the minor child. 105

(E) If a decedent during the decedent's lifetime has 106
purchased an irrevocable preneed funeral contract pursuant to 107
section ~~1109.75~~ 4717.31 of the Revised Code, then the duty of 108

support owed to a spouse pursuant to this section does not include 109
an obligation to pay for the funeral expenses of the deceased 110
spouse. This division does not preclude a surviving spouse from 111
assuming by contract the obligation to pay for the funeral 112
expenses of the deceased spouse. 113

Sec. 3905.451. A life insurance policy that is issued, sold, 114
or assigned for the purpose of purchasing funeral or burial goods 115
or services, and the contractual obligation to provide the goods 116
or services, are not subject to divisions (C), (F), (G), (I), and 117
(J) of section ~~4411.19~~ 4717.31 of the Revised Code. 118

Sec. 4717.01. As used in this chapter: 119

(A) "Embalming" means the preservation and disinfection, or 120
attempted preservation and disinfection, of the dead human body by 121
application of chemicals externally, internally, or both. 122

(B) "Funeral business" means a sole proprietorship, 123
partnership, corporation, limited liability company, or other 124
business entity that is engaged in funeral directing for profit or 125
for free from one or more funeral homes licensed under this 126
chapter. 127

(C) "Funeral directing" means the business or profession of 128
directing or supervising funerals for profit, the business or 129
profession of preparing dead human bodies for burial by means 130
other than embalming, the disposition of dead human bodies, the 131
provision or maintenance of a place for the preparation, the care, 132
or disposition of dead human bodies, the use in connection with a 133
business of the term "funeral director," "undertaker," 134
"mortician," or any other term from which can be implied the 135
business of funeral directing, or the holding out to the public 136
that one is a funeral director or a disposer of dead human bodies. 137

(D) "Funeral home" means a fixed place for the care, 138

preparation for burial, or disposition of dead human bodies or the 139
conducting of funerals. Each business location is a funeral home, 140
regardless of common ownership or management. 141

(E) "Embalmer" means a person who engages, in whole or in 142
part, in embalming and who is licensed under this chapter. 143

(F) "Funeral director" means a person who engages, in whole 144
or in part, in funeral directing and who is licensed under this 145
chapter. 146

(G) "Final disposition" has the same meaning as in division 147
(J) of section 3705.01 of the Revised Code. 148

(H) "Supervision" means the operation of all phases of the 149
business of funeral directing or embalming under the specific 150
direction of a licensed funeral director or licensed embalmer. 151

(I) "Direct supervision" means the physical presence of a 152
licensed funeral director or licensed embalmer while the specific 153
functions of the funeral or embalming are being carried out. 154

(J) "Embalming facility" means a fixed location, separate 155
from the funeral home, that is licensed under this chapter whose 156
only function is the embalming and preparation of dead human 157
bodies. 158

(K) "Crematory facility" means the physical location at which 159
a cremation chamber is located and the cremation process takes 160
place. "Crematory facility" does not include an infectious waste 161
incineration facility for which a license is held under division 162
(B) of section 3734.05 of the Revised Code, or a solid waste 163
incineration facility for which a license is held under division 164
(A) of that section that includes a notation pursuant to division 165
(B)(3) of that section authorizing the facility to also treat 166
infectious wastes, in connection with the incineration of body 167
parts other than dead human bodies that were donated to science 168
for purposes of medical education or research. 169

(L) "Crematory" means the building or portion of a building that houses the holding facility and the cremation chamber.	170 171
(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.	172 173 174 175
(N) "Cremation chamber" means the enclosed space within which cremation takes place.	176 177
(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.	178 179 180 181 182
(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.	183 184 185 186
(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.	187 188 189 190
(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.	191 192 193
(S) "Pulverization" means the reduction of identifiable bone fragments to granulated particles by manual or mechanical means after the completion of the cremation process.	194 195 196
<u>(T) "Financial institution" means a bank, savings bank, or savings association located in this state and insured by the federal deposit insurance corporation or a credit union authorized</u>	197 198 199

to do business in this state. 200

(U) "Preneed funeral contract" means a written agreement, 201
contract, or series of contracts to sell or otherwise provide any 202
funeral services, funeral goods, including caskets, or any 203
combination of funeral services and funeral goods to be used in 204
connection with the funeral or final disposition of a dead human 205
body, where payment for the goods or services is made either 206
outright or on an installment basis, prior to the death of the 207
person purchasing the goods or services or for whom the goods or 208
services are purchased. Preneed funeral contract does not include 209
any preneed cemetery merchandise and services contract or any 210
agreement, contract, or series of contracts pertaining to the sale 211
of any burial lot, burial or interment right, entombment right, or 212
columbarium right with respect to which an endowment care fund is 213
established or is exempt from establishment pursuant to section 214
1721.21 of the Revised Code. 215

Sec. 4717.03. (A) Members of the board of embalmers and 216
funeral directors shall annually in July, or within thirty days 217
after the senate's confirmation of the new members appointed in 218
that year, meet and organize by selecting from among its members a 219
president, vice-president, and secretary-treasurer. The board may 220
hold other meetings as it determines necessary. A quorum of the 221
board consists of four members, of whom at least three shall be 222
members who are embalmers and funeral directors. The concurrence 223
of at least four members is necessary for the board to take any 224
action. The president and secretary-treasurer shall sign all 225
licenses issued under this chapter and affix the board's seal to 226
each license. 227

(B) The board may appoint an individual who is not a member 228
of the board to serve as executive director of the board. The 229
executive director serves at the pleasure of the board and shall 230

do all of the following:	231
(1) Serve as the board's chief administrative officer;	232
(2) Act as custodian of the board's records;	233
(3) Execute all of the board's orders.	234
In executing the board's orders, the executive director may	235
enter the premises, establishment, office, or place of business of	236
any embalmer, funeral director, or operator of a crematory	237
facility in this state. The executive director may serve and	238
execute any process issued by any court under this chapter.	239
(C) The board may employ clerical or technical staff who are	240
not members of the board and who serve at the pleasure of the	241
board to provide any clerical or technical assistance the board	242
considers necessary. The board may employ necessary inspectors,	243
who shall be licensed embalmers and funeral directors. Any	244
inspector employed by the board may enter the premises,	245
establishment, office, or place of business of any embalmer,	246
funeral director, or operator of a crematory facility in this	247
state, for the purposes of inspecting the facility and premises;	248
the license and registration of embalmers and funeral directors	249
operating in the facility; and the license of the funeral home,	250
embalming facility, or crematory. The inspector shall serve and	251
execute any process issued by any court under this chapter, serve	252
and execute any papers or process issued by the board or any	253
officer or member of the board, and perform any other duties	254
delegated by the board.	255
(D) The president of the board shall designate three of its	256
members to serve on the crematory review board, which is hereby	257
created, for such time as the president finds appropriate to carry	258
out the provisions of this chapter. Those members of the crematory	259
review board designated by the president to serve and three	260
members designated by the cemetery dispute resolution commission	261

shall designate, by a majority vote, one person who is experienced 262
in the operation of a crematory facility and who is not affiliated 263
with a cemetery or a funeral home to serve on the crematory review 264
board for such time as the crematory review board finds 265
appropriate. Members serving on the crematory review board shall 266
not receive any additional compensation for serving on the board, 267
but may be reimbursed for their actual and necessary expenses 268
incurred in the performance of official duties as members of the 269
board. Members of the crematory review board shall designate one 270
from among its members to serve as a chairperson for such time as 271
the board finds appropriate. Costs associated with conducting an 272
adjudicatory hearing in accordance with division (E) of this 273
section shall be paid from funds available to the board of 274
embalmers and funeral directors. 275

(E) Upon receiving written notice from the board of embalmers 276
and funeral directors of any of the following, the crematory 277
review board shall conduct an adjudicatory hearing on the matter 278
in accordance with Chapter 119. of the Revised Code, except as 279
otherwise provided in this section or division (C) of section 280
4717.14 of the Revised Code: 281

(1) Notice provided under division (H) of this section of an 282
alleged violation of any provision of this chapter or any rules 283
adopted under this chapter, ~~or section 1111.19 of the Revised~~ 284
~~Code,~~ governing or in connection with crematory facilities or 285
cremation; 286

(2) Notice provided under division (B) of section 4717.14 of 287
the Revised Code that the board of embalmers and funeral directors 288
proposes to refuse to grant or renew, or to suspend or revoke, a 289
license to operate a crematory facility; 290

(3) Notice provided under division (C) of section 4717.14 of 291
the Revised Code that the board of embalmers and funeral directors 292
has issued an order summarily suspending a license to operate a 293

crematory facility; 294

(4) Notice provided under division (B) of section 4717.15 of 295
the Revised Code that the board of embalmers and funeral directors 296
proposes to issue a notice of violation and order requiring 297
payment of a forfeiture for any violation described in divisions 298
(A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in 299
connection with a crematory facility or cremation. 300

Nothing in division (E) of this section precludes the 301
crematory review board from appointing an independent examiner in 302
accordance with section 119.09 of the Revised Code to conduct any 303
adjudication hearing required under division (E) of this section. 304

The crematory review board shall submit a written report of 305
findings and advisory recommendations, and a written transcript of 306
its proceedings, to the board of embalmers and funeral directors. 307
The board of embalmers and funeral directors shall serve a copy of 308
the written report of the crematory review board's findings and 309
advisory recommendations on the party to the adjudication or the 310
party's attorney, by certified mail, within five days after 311
receiving the report and advisory recommendations. A party may 312
file objections to the written report with the board of embalmers 313
and funeral directors within ten days after receiving the report. 314
No written report is final or appealable until it is issued as a 315
final order by the board of embalmers and funeral directors and 316
entered on the record of the proceedings. The board of embalmers 317
and funeral directors shall consider objections filed by the party 318
prior to issuing a final order. After reviewing the findings and 319
advisory recommendations of the crematory review board, the 320
written transcript of the crematory review board's proceedings, 321
and any objections filed by a party, the board of embalmers and 322
funeral directors shall issue a final order in the matter. Any 323
party may appeal the final order issued by the board of embalmers 324
and funeral directors in a matter described in divisions (E)(1) to 325

(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 358
that, notwithstanding the provisions of that chapter, the 359
following shall apply: 360

(1) The board shall send the notice informing the person of 361
the person's right to a hearing by certified mail. 362

(2) The person is entitled to a hearing only if the person 363
requests a hearing and if the board receives the request within 364
thirty days after the mailing of the notice described in division 365
(G)(1) of this section. 366

(3) A stenographic record shall be taken, in the manner 367
prescribed in section 119.09 of the Revised Code, at every 368
adjudicatory hearing held under this section, regardless of 369
whether the record may be the basis of an appeal to a court. 370

(H) If, as a result of its investigation conducted under 371
division (F) of this section, the board of embalmers and funeral 372
directors has reasonable cause to believe that the person 373
investigated is violating any provision of this chapter or any 374
rules adopted under this chapter, ~~or section 1111.19 of the~~ 375
~~Revised Code,~~ governing or in connection with crematory facilities 376
or cremation, the board shall send written notice of the alleged 377
violation to the crematory review board. If, after the conclusion 378
of the adjudicatory hearing in the matter conducted under division 379
(E) of this section, the board of embalmers and funeral directors 380
finds that a person is in violation of any provision of this 381
chapter or any rules adopted under this chapter, ~~or section~~ 382
~~1111.19 of the Revised Code,~~ governing or in connection with 383
crematory facilities or cremation, the board may issue a final 384
order under that division directing the person to cease the acts 385
or practices that constitute the violation. 386

(I) The board of embalmers and funeral directors may bring a 387
civil action to enjoin any violation or threatened violation of 388

~~section 1111.19;~~ sections 4717.01 to 4717.15 of the Revised Code 389
or a rule adopted under any of those sections; division (A) or (B) 390
of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), 391
(E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 392
division (D)(1) of section 4717.27; ~~or~~ divisions (A) to (C) of 393
section 4717.28, or section 4717.31 of the Revised Code. The 394
action shall be brought in the county where the violation occurred 395
or the threatened violation is expected to occur. At the request 396
of the board, the attorney general shall represent the board in 397
any matter arising under this chapter. 398

(J) The board of embalmers and funeral directors and the 399
crematory review board may issue subpoenas for funeral directors 400
and embalmers or persons holding themselves out as such, for 401
operators of crematory facilities or persons holding themselves 402
out as such, or for any other person whose testimony, in the 403
opinion of either board, is necessary. The subpoena shall require 404
the person to appear before the appropriate board or any 405
designated member of either board, upon any hearing conducted 406
under this chapter. The penalty for disobedience to the command of 407
such a subpoena is the same as for refusal to answer such a 408
process issued under authority of the court of common pleas. 409

(K) All moneys received by the board of embalmers and funeral 410
directors from any source shall be deposited in the state treasury 411
to the credit of the occupational licensing and regulatory fund 412
created in section 4743.05 of the Revised Code. 413

(L) The board of embalmers and funeral directors shall submit 414
a written report to the governor on or before the first Monday of 415
July of each year. This report shall contain a detailed statement 416
of the nature and amount of the board's receipts and the amount 417
and manner of its expenditures. 418

Sec. 4717.04. (A) The board of embalmers and funeral 419

directors shall adopt rules in accordance with Chapter 119. of the 420
Revised Code for the government, transaction of the business, and 421
the management of the affairs of the board of embalmers and 422
funeral directors and the crematory review board, and for the 423
administration and enforcement of this chapter. These rules shall 424
include all of the following: 425

(1) The nature, scope, content, and form of the application 426
that must be completed and license examination that must be passed 427
in order to receive an embalmer's license or a funeral director's 428
license under section 4717.05 of the Revised Code. The rules shall 429
ensure both of the following: 430

(a) That the embalmer's license examination tests the 431
applicant's knowledge through at least a comprehensive section and 432
an Ohio laws section; 433

(b) That the funeral director's license examination tests the 434
applicant's knowledge through at least a comprehensive section, an 435
Ohio laws section, and a sanitation section. 436

(2) The minimum license examination score necessary to be 437
licensed under section 4717.05 of the Revised Code as an embalmer 438
or as a funeral director; 439

(3) Procedures for determining the dates of the embalmer's 440
and funeral director's license examinations, which shall be 441
administered at least once each year, the time and place of each 442
examination, and the supervision required for each examination; 443

(4) Procedures for determining whether the board shall accept 444
an applicant's compliance with the licensure, registration, or 445
certification requirements of another state as grounds for 446
granting the applicant a license under this chapter; 447

(5) A determination of whether completion of a nationally 448
recognized embalmer's or funeral director's examination 449
sufficiently meets the license requirements for the comprehensive 450

section of either the embalmer's or the funeral director's license examination administered under this chapter;	451 452
(6) Continuing education requirements for licensed embalmers and funeral directors;	453 454
(7) Requirements for the licensing and operation of funeral homes;	455 456
(8) Requirements for the licensing and operation of embalming facilities;	457 458
(9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A)(9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:	459 460 461 462
(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;	463 464 465
(b) Purposely violating any provision of 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 of the Revised Code;	466 467 468 469 470 471
(c) Committing unprofessional conduct;	472
(d) Knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;	473 474 475 476
(e) Refusing to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body;	477 478 479
(f) Transferring a license to operate a funeral home,	480

embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board;

(g) Misleading the public using false or deceptive advertising.

Each instance of the commission of any of the types of conduct described in divisions (A)(9)(a), (b), (c), (d), (e), (f), and (g) of this section is a separate violation. The rules adopted under division (A)(9) of this section shall establish the amount of the forfeiture for a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. The amount of the forfeiture may differ among the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the issuance of duplicate licenses;

(12) Requirements and procedures for annual reporting of preneed sales by all preneed sellers;

(13) Procedures for the administration of the preneed recovery fund.

(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director and the standards of service and practice to be followed in embalming and funeral directing and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.

(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate crematories located at cemeteries

in accordance with this chapter. 511

Sec. 4717.13. (A) No person shall do any of the following: 512

(1) Engage in the business or profession of funeral directing 513
unless the person is licensed as a funeral director under this 514
chapter, is certified as an apprentice funeral director in 515
accordance with rules adopted under section 4717.04 of the Revised 516
Code and is assisting a funeral director licensed under this 517
chapter, or is a student in a college of mortuary sciences 518
approved by the board and is under the direct supervision of a 519
funeral director licensed by the board; 520

(2) Engage in embalming unless the person is licensed as an 521
embalmer under this chapter, is certified as an apprentice 522
embalmer in accordance with rules adopted under section 4717.04 of 523
the Revised Code and is assisting an embalmer licensed under this 524
chapter, or is a student in a college of mortuary science approved 525
by the board and is under the direct supervision of an embalmer 526
licensed by the board; 527

(3) Advertise or otherwise offer to provide or convey the 528
impression that the person provides funeral directing services 529
unless the person is licensed as a funeral director under this 530
chapter and is employed by or under contract to a licensed funeral 531
home and performs funeral directing services for that funeral home 532
in a manner consistent with the advertisement, offering, or 533
conveyance; 534

(4) Advertise or otherwise offer to provide or convey the 535
impression that the person provides embalming services unless the 536
person is licensed as an embalmer under this chapter and is 537
employed by or under contract to a licensed funeral home or a 538
licensed embalming facility and performs embalming services for 539
the funeral home or embalming facility in a manner consistent with 540
the advertisement, offering, or conveyance; 541

(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;	542 543
(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;	544 545 546
(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;	547 548 549
(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;	550 551
(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.	552 553 554 555
(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:	556 557 558
(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;	559 560 561 562
(2) Place in the casket a capsule containing a tag bearing the information described in division (B)(1) of this section;	563 564
(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.	565 566 567
(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	568 569 570 571

one or more persons who solely or in combination with others did 572
not own a majority of the funeral business immediately prior to 573
the change in ownership, shall fail to submit to the board within 574
thirty days after the closing or such a change in ownership of the 575
funeral business owning the funeral home, a clearly enumerated 576
account of all of the following from which the licensee, at the 577
time of the closing or change in ownership of the funeral business 578
and in connection with the funeral home, was to receive payment 579
for providing funeral services, funeral goods, or any combination 580
of those in connection with the funeral or final disposition of a 581
dead human body: 582

(1) Preneed funeral contracts governed by section ~~4111.19~~ 583
4717.31 of the Revised Code; 584

(2) Life insurance policies the benefits of which are payable 585
to the provider of funeral or burial goods or services; 586

(3) Accounts at banks or savings banks insured by the federal 587
deposit insurance corporation, savings and loan associations 588
insured by the federal savings and loan insurance corporation or 589
the Ohio deposit guarantee fund, or credit unions insured by the 590
national credit union administration or a credit union share 591
guaranty corporation organized under Chapter 1761. of the Revised 592
Code that are payable upon the death of the person for whose 593
benefit deposits into the accounts were made. 594

Sec. 4717.31. (A) Only a funeral director licensed pursuant 595
to Chapter 4717. of the Revised Code may sell a preneed funeral 596
contract that includes funeral services. 597

(B) A preneed funeral contract may be funded by the purchase 598
or assignment of an insurance policy in accordance with section 599
3905.45 of the Revised Code. Preneed funeral contracts that are 600
funded by the purchase or assignment of an insurance policy in 601
accordance with section 3905.45 of the Revised Code are not 602

subject to divisions (C), (F), (G), (I), and (J) of this section. 603
Any preneed funeral contract that involves the payment of money or 604
the purchase or assignment of an insurance policy shall be in 605
writing and include the following information: 606

(1) The name, address, and phone number of the seller and the 607
name, address, and social security number of the purchaser, and, 608
if the beneficiary of the preneed funeral contract is for someone 609
other than the purchaser, the name, address, and social security 610
number of the beneficiary; 611

(2) A statement of the funeral goods and funeral services 612
purchased, which disclosure may be made by attaching a copy of the 613
completed statement of funeral goods and services selected to the 614
preneed funeral contract; 615

(3) If the preneed funeral contract is funded by any means 616
other than an insurance policy or policies, disclosures 617
identifying the name and address of the trustee, indicating 618
whether fees, expenses, or taxes will be deducted from the trust, 619
and a statement of who will be responsible for the taxes owed on 620
the trust earnings; 621

(4) If the preneed funeral contract is funded by the purchase 622
or assignment of one or more insurance policies, disclosures 623
identifying the name and address of the insurance company and any 624
right the purchaser has regarding canceling or transferring the 625
insurance policies; 626

(5) A disclosure explaining the form in which the purchase 627
price must be paid and, if the price is to be paid in 628
installments, a disclosure to the purchaser regarding what 629
constitutes a default under the preneed funeral contract and the 630
consequences of the default; 631

(6) A disclosure informing the purchaser whether the contract 632
is either a guaranteed price preneed funeral contract or a 633

non-guaranteed price preneed funeral contract, and, if guaranteed 634
only in part, the funeral goods or funeral services included in 635
the guarantee shall be specified. If the preneed funeral contract 636
is a guaranteed price contract, the contract shall disclose that 637
the seller, in exchange for all of the proceeds of the trust or 638
insurance policy, shall provide the funeral goods and services set 639
forth in the preneed funeral contract without regard to the actual 640
cost of such funeral goods and services prevailing at the time of 641
performance. If the preneed funeral contract is a non-guaranteed 642
price contract, the contract shall disclose that the proceeds of 643
the trust or insurance policy shall be applied to the current 644
retail prices of the funeral goods and services set forth in the 645
contract. It shall further disclose that any surplus funds shall 646
be paid to the estate of the purchaser and, in the event of an 647
insufficiency in funds, the seller shall not be required to 648
perform until payment arrangements satisfactory to the seller have 649
been made. 650

(7) A disclosure that the purchaser has the right to make the 651
contract irrevocable and that if the preneed funeral contract is 652
irrevocable, the purchaser does not have a right to revoke the 653
contract; 654

(8) A disclosure informing the purchaser of the initial right 655
to cancel the preneed funeral contract within seven days as 656
provided in division (D) of this section and the right to revoke a 657
revocable preneed funeral contract in accordance with divisions 658
(E)(3) and (I)(1) of this section; 659

(9) A disclosure that the seller may substitute funeral goods 660
or services of equal quality, value, and workmanship if those 661
specified in the preneed funeral contract are unavailable at the 662
time of need; 663

(10) A disclosure that any purchaser of funeral goods and 664
services is entitled to receive price information prior to making 665

that purchase in accordance with the Federal Trade Commission's 666
funeral industry practices revised rule, 16 C.F.R. Part 453; 667

(11) The following notice in boldface print and in 668
substantially the following form: 669

"NOTICE: Under Ohio law, the person holding the right of 670
disposition of the remains of the beneficiary of this contract 671
pursuant to section 2108.70 or 2108.81 of the Revised Code will 672
have the right to make funeral arrangements inconsistent with the 673
arrangements set forth in this contract. However, the beneficiary 674
is encouraged to state his or her preferences as to funeral 675
arrangements in a declaration of the right of disposition pursuant 676
to section 2108.72 of the Revised Code, including that the 677
arrangements set forth in this contract shall be followed." 678

(12) If the preneed funeral contract is funded by the 679
purchase of one or more insurance policies, the following notice 680
in boldface print and in substantially the following form: 681

"NOTICE: You, as the purchaser of this contract, will be 682
notified in writing by any insurance company when the insurance 683
policy or policies that will fund this contract have been issued. 684
If you do not receive the notice within sixty days of the date you 685
paid the funds to the seller, you should contact the insurance 686
company identified in the contract." 687

(13) If the preneed contract is funded by means other than an 688
insurance policy, the following notice in boldface print and in 689
substantially the following form: 690

"NOTICE: You, as the purchaser of this contract, will be 691
notified in writing when the trustee of this contract has received 692
a deposit of the funds you paid the seller under this contract. If 693
you do not receive the notice within sixty days of the date you 694
paid the funds to the seller, you should contact the trustee 695
identified in the contract." 696

(C) One hundred per cent of all payments for funeral goods and services made under a preneed funeral contract shall remain intact and held in trust in accordance with divisions (F), (G), (I), and (J) of this section for the benefit of the person for whose benefit the contract is made. 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 seller of funeral goods or services receives any payment under a preneed funeral contract, the seller shall deliver the moneys received and not returned to the purchaser as provided in division (D) of this section to the trustee designated in the preneed funeral contract.

(D) Any purchaser on initially entering into a preneed funeral contract may, within seven days, rescind the contract and request and receive from the seller 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."

(E)(1) If the preneed funeral contract provides that it will be funded by the purchase of an insurance policy, the seller, within thirty days after receiving any payment under the preneed funeral contract, shall deliver the money received and not returned to the purchaser as provided in division (D) of this section, to the insurance company designated in the preneed funeral contract.

(2) The insurance company receiving payment from a preneed funeral contract seller for an insurance policy to fund the preneed funeral contract shall notify the purchaser of the contract in writing of the amount of any payment received within

fifteen days of the receipt of the payment. 729

(3) The purchaser of a preneed funeral contract that is not 730
irrevocable and that is funded by an insurance policy may, on not 731
less than fifteen days' notice, cancel the preneed funeral 732
contract and change the beneficiary of the insurance policy or 733
reassign the benefits under the policy. 734

(4) The purchaser of a preneed funeral contract that is 735
irrevocable and that is funded by an insurance policy may transfer 736
the preneed funeral contract to a successor seller. Within fifteen 737
days of receiving the written notice of the designation of the 738
successor seller from the purchaser, the original seller shall 739
notify the insurance company to transfer all rights under the 740
insurance policy to the successor seller. The insurance company 741
shall confirm the transfer to the original seller, the successor 742
seller, and the purchaser by written notice to each. 743

(F) The trustee of each preneed funeral contract shall be a 744
trust company licensed under Chapter 1111. of the Revised Code or 745
a national bank or federal savings association that pledges 746
securities in accordance with section 1111.04 of the Revised Code 747
or at least three individuals who have been residents of the 748
county in which the seller is located for at least one year, each 749
of whom shall be bonded by a corporate surety in an amount that is 750
at least equal to the amount deposited in the fund of which those 751
persons serve as trustee. Amounts in the fund shall be held and 752
invested in the manner in which trust funds are permitted to be 753
held and invested pursuant to sections 2109.37 and 2109.371 of the 754
Revised Code. 755

(G)(1) A trustee shall establish a separate preneed funeral 756
contract trust for the moneys paid under each preneed funeral 757
contract, unless the purchaser under a preneed funeral contract 758
authorizes the trustee to place the moneys paid in a combined 759
preneed funeral contract trust. The trustee of a combined preneed 760

funeral contract trust shall keep exact records of the corpus, 761
income, expenses, and disbursements with regard to each 762
beneficiary of a preneed funeral contract for whom moneys are held 763
in the trust. The terms of a preneed funeral contract trust are 764
governed by this section. 765

(2) The trustee of a preneed funeral contract shall notify 766
the purchaser of the contract in writing of the amount of any 767
deposit with the trustee of a payment under the contract within 768
fifteen days of receiving the deposit from the seller of the 769
contract. 770

(3) A trustee may charge a fee for managing a preneed funeral 771
contract trust. The fee shall not exceed the amount regularly or 772
usually charged for similar services rendered by the financial 773
institution when serving as a trustee, and shall be paid only from 774
the income on that trust. 775

(H) No preneed funeral contract shall restrict the purchaser 776
from making the contract irrevocable. On the purchase by an 777
individual of an irrevocable preneed funeral contract, the selling 778
funeral director assumes the legal obligation to provide for the 779
funeral of the individual pursuant to the terms of the contract. 780
No money deposited in a trust fund for an irrevocable preneed 781
contract shall be withdrawn to purchase an insurance policy. 782

(I)(1) The purchaser of a preneed funeral contract that is 783
not irrevocable may, on not less than fifteen days' notice, cancel 784
the contract and request and receive from the trustee payments 785
made under the contract and any income earned up to the time of 786
cancellation, less fees, distributions, and expenses made pursuant 787
to this section; except, if a preneed funeral contract stipulates 788
a firm or fixed or guaranteed price for funeral services and goods 789
for future use at a time determined by the death of the 790
beneficiary of the preneed funeral contract, the purchaser, on not 791
less than fifteen days' notice, may cancel the contract and 792

receive from the trustee ninety per cent of the principal paid 793
pursuant to the preneed funeral contract, not less than eighty per 794
cent of any interest earned up to the time of cancellation, and 795
not less than eighty per cent of any income earned on the funds 796
since the funds were paid to the seller and up to the time of 797
cancellation less any fees, distributions, and expenses. On 798
cancellation, after the funds are distributed to the purchaser 799
pursuant to this division, the trustee shall distribute all 800
remaining funds attributable to the cancelled preneed funeral 801
contract to the seller. If more than one purchaser enters into the 802
contract, all of those purchasers must request cancellation for it 803
to be effective under this division, and the trustee shall refund 804
to each purchaser only those funds that purchaser has paid under 805
the contract and a proportionate amount of any income earned on 806
those funds, less any fees, distributions, and expenses. 807

(2) The purchaser of a preneed funeral contract that is 808
irrevocable may transfer the preneed funeral contract to a 809
successor seller. Within fifteen days of receiving the written 810
notice of the new designation from the purchaser, the trustee 811
shall list the successor seller as the seller of the preneed 812
funeral contract and the original seller shall relinquish and 813
transfer all rights under the preneed funeral contract to the 814
successor seller. The trustee shall confirm the transfer to the 815
original seller, the successor seller, and the purchaser by 816
written notice to each. If the preneed funeral contract stipulates 817
a firm or fixed or guaranteed price for the funeral services and 818
goods to be provided under the preneed funeral contract, the 819
original seller may collect from the trustee a cancellation fee 820
not exceeding ten per cent of the principal paid pursuant to the 821
preneed funeral contract and twenty per cent of any interest or 822
income earned on the funds since the time the funds were paid to 823
the seller up to the time of transfer. If the preneed funeral 824
contract does not stipulate a firm or fixed or guaranteed price 825

for funeral services and goods to be provided under the preneed funeral contract, no cancellation fee may be collected by the original seller. 826
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(3) Within thirty days after a seller receives notice that the beneficiary of a preneed funeral contract has died and that funeral services and goods have been provided by a different provider, the seller shall notify the trustee to pay to the estate of the beneficiary of the preneed funeral contract all funds held by the trustee, less fees, distributions, and expenses made pursuant to this section; provided, however, that in the event the preneed funeral contract stipulates a firm or fixed or guaranteed price for funeral services and goods 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 principal paid pursuant to the preneed funeral contract and twenty per cent of any interest or income earned on the funds since the time the funds were paid to the seller up to the date that the trust funds were paid to the estate of the beneficiary. If the preneed funeral trust does not stipulate a firm or fixed or guaranteed price for funeral services and goods to be provided under the preneed funeral contract, no cancellation fees may be collected by the original seller. 829
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(J) 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. The payment of the accumulated payments and income pursuant to this section and, when applicable, the preneed funeral contract, shall relieve the trustee of any further liability on the accumulated payments and income. 848
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(K) For purposes of this section, the seller is deemed to 857

have delivered funeral goods pursuant to a preneed funeral 858
contract when the seller makes actual delivery of the goods to the 859
beneficiary. 860

(L) All sellers of funeral goods or services under a preneed 861
funeral contract, whether funded by insurance or otherwise, 862
annually shall submit to the board of embalmers and funeral 863
directors the reports the board requires. 864

(M) This section shall be construed as a limitation on the 865
manner in which a person is permitted to accept funds in 866
prepayment for funeral services to be performed in the future, or 867
funeral goods to be used in connection with the funeral or final 868
disposition of human remains, to the end that at all times members 869
of the public may have an opportunity to arrange and pay for a 870
funeral for themselves and their families in advance of need while 871
at the same time providing all possible safeguards to ensure that 872
prepaid funds cannot be dissipated, whether intentionally or not, 873
but remain available for payment for funeral goods and services in 874
connection with the funeral or final disposition of dead human 875
bodies. 876

(N) This section does not apply when the seller of funeral 877
goods or services under a preneed funeral contract is an 878
established and legally cognizable church or denomination that is 879
exempt from federal income taxation under section 501(c)(3) of the 880
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as 881
amended, and the preneed funeral contract pertains to a cemetery 882
owned and operated entirely and exclusively by the church or 883
denomination; provided the church or denomination adopts, on a 884
voluntary basis, rules and other measures to safeguard and secure 885
all funds received under any preneed funeral contract. 886

(O) This section does not prohibit persons who are not 887
licensed funeral directors from selling funeral goods pursuant to 888
a preneed funeral contract; however, all sellers of funeral goods 889

pursuant to a preneed funeral contract shall comply with this 890
section unless the seller is specifically exempt from compliance 891
by this section. 892

(P) Any money, insurance policies, or other items delivered 893
in payment of a preneed funeral contract, and any funds held in 894
trust pursuant to this section, are exempt from levy, attachment, 895
or sale to satisfy a judgment or order. 896

Sec. 4717.32. (A) There is hereby created in the state 897
treasury the preneed recovery fund, which shall be used to 898
reimburse any purchaser of a preneed funeral contract who has 899
incurred financial losses as a result of the malfeasance, 900
misfeasance, default, failure, or insolvency of any seller of a 901
preneed funeral contract. All investment earnings of the fund 902
shall be credited to the fund. 903

(B) A seller of a preneed funeral contract that is funded by 904
the payment of money or by an insurance policy shall collect from 905
each purchaser of a preneed funeral contract a fee of ten dollars. 906
The sellers of preneed funeral contracts annually shall remit the 907
fees collected to the board of embalmers and funeral directors 908
quarterly within thirty days after the end of March, June, 909
September, and December for all preneed funeral contracts that 910
have been entered into during the three-month period. The board 911
shall deposit one-half of the fees collected into the preneed 912
recovery fund, to be expended only for the purposes specified in 913
division (E) of this section. 914

(C) The remaining one-half of the fees remitted to the board 915
in accordance with division (B) of this section shall be used by 916
the board to administer the preneed recovery fund and to monitor 917
the preneed annual reports filed by sellers of preneed funeral 918
contracts. 919

(D) The board shall adopt rules governing management of the 920

preneed recovery fund, the presentation and processing of 921
applications for reimbursement, and subrogation or assignment of 922
the rights of any reimbursed applicant. 923

(E) The board may expend moneys in the fund for the following 924
purposes: 925

(1) To make reimbursements on approved applications; 926

(2) To purchase insurance to cover losses as deemed 927
appropriate by the board and not inconsistent with the purposes of 928
the fund; 929

(3) To invest such portions of the fund as are not currently 930
needed to reimburse losses and maintain adequate reserves as are 931
permitted to be made by fiduciaries under state law. 932

(F) Reimbursements from the fund shall be made only to the 933
extent to which such losses are not bonded or otherwise covered, 934
protected, or reimbursed, and only after the applicant has 935
complied with all applicable rules of the board. 936

(G) The board shall investigate all applications made and may 937
reject or allow such claims in whole or in part to the extent that 938
the moneys are available in the fund. The board has complete 939
discretion to determine the order and manner of payment of 940
approved applications. All payments are a matter of privilege and 941
not a right, and no person has any right in the fund as a 942
third-party beneficiary or otherwise. No attorney may be 943
compensated by the board for prosecuting an application for 944
reimbursement. 945

(H) In the event reimbursement is made to an applicant under 946
this section, the board is subrogated in the reimbursed amount and 947
may bring any action it deems advisable against any person, 948
including a seller of a preneed funeral contract. The board may 949
enforce any claims it may have for restitution or otherwise and 950
may employ and compensate consultants, agents, legal counsel, 951

accountants, and any other person it deems appropriate. 952

(I) The fund shall not be applied toward any reimbursement on losses on a preneed funeral contract that was entered into prior to the effective date of this section. 953
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(J) If at the end of any fiscal year for the state, the balance in the fund exceeds two million dollars, the amount collected from purchasers of preneed funeral contracts during the next fiscal year shall be reduced from ten dollars to five dollars, with all such proceeds to be used by the board in accordance with division (C) of this section. 956
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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. 962
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Whoever purposely violates section 4717.31 of the Revised Code is guilty of a felony of the fourth degree. 973
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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 975
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earning or receiving lottery winnings, prizes, or awards pursuant	982	
to Chapter 3770. of the Revised Code, and on every individual,	983	
trust, and estate otherwise having nexus with or in this state	984	
under the Constitution of the United States, an annual tax	985	
measured in the case of individuals by Ohio adjusted gross income	986	
less an exemption for the taxpayer, the taxpayer's spouse, and	987	
each dependent as provided in section 5747.025 of the Revised	988	
Code; measured in the case of trusts by modified Ohio taxable	989	
income under division (D) of this section; and measured in the	990	
case of estates by Ohio taxable income. The tax imposed by this	991	
section on the balance thus obtained is hereby levied as follows:	992	
(1) For taxable years beginning in 2004:	993	
OHIO ADJUSTED GROSS INCOME LESS	994	
EXEMPTIONS (INDIVIDUALS)		
OR	995	
MODIFIED OHIO	996	
TAXABLE INCOME (TRUSTS)	997	
OR	998	
OHIO TAXABLE INCOME (ESTATES)	999	
TAX		
\$5,000 or less	.743%	1000
More than \$5,000 but not more	\$37.15 plus 1.486% of the amount	1001
than \$10,000	in excess of \$5,000	
More than \$10,000 but not more	\$111.45 plus 2.972% of the	1002
than \$15,000	amount in excess of \$10,000	
More than \$15,000 but not more	\$260.05 plus 3.715% of the	1003
than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more	\$445.80 plus 4.457% of the	1004
than \$40,000	amount in excess of \$20,000	
More than \$40,000 but not more	\$1,337.20 plus 5.201% of the	1005
than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more	\$3,417.60 plus 5.943% of the	1006
than \$100,000	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	1007
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	1008
(2) For taxable years beginning in 2005:		1009
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1010
OR		1011
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		1012
OR		1013
OHIO TAXABLE INCOME (ESTATES)	TAX	1014
\$5,000 or less	.712%	1015
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	1016
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	1017
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	1018
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	1019
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	1020
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	1021
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	1022
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	1023
(3) For taxable years beginning in 2006:		1024
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1025
		1026

OR		1027
MODIFIED OHIO		1028
TAXABLE INCOME (TRUSTS)		1029
OR		1030
OHIO TAXABLE INCOME (ESTATES)	TAX	1031
\$5,000 or less	.681%	1032
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	1033
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	1034
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	1035
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	1036
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	1037
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	1038
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	1039
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	1040
(4) For taxable years beginning in 2007:		1041
OHIO ADJUSTED GROSS INCOME LESS		1042
EXEMPTIONS (INDIVIDUALS)		
OR		1043
MODIFIED OHIO		1044
TAXABLE INCOME (TRUSTS)		1045
OR		1046
OHIO TAXABLE INCOME (ESTATES)	TAX	1047
\$5,000 or less	.649%	1048
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1049

More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	1050
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1051
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1052
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1053
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1054
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1055
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1056
(5) For taxable years beginning in 2008:		1057
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1058
OR		1059
MODIFIED OHIO		1060
TAXABLE INCOME (TRUSTS)		1061
OR		1062
OHIO TAXABLE INCOME (ESTATES) TAX		1063
\$5,000 or less	.618%	1064
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1065
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1066
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1067
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1068
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1069

More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1070
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1071
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1072
(6) For taxable years beginning in 2009 or thereafter:		1073
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1074
OR		1075
MODIFIED OHIO		1076
TAXABLE INCOME (TRUSTS)		1077
OR		1078
OHIO TAXABLE INCOME (ESTATES)	TAX	1079
\$5,000 or less	.587%	1080
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1081
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1082
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1083
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1084
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1085
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	1086
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1087
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1088
In July of each year, beginning in 2010, the tax commissioner shall adjust the income amounts prescribed in this division by		1089
		1090

1091 multiplying the percentage increase in the gross domestic product
1092 deflator computed that year under section 5747.025 of the Revised
1093 Code by each of the income amounts resulting from the adjustment
1094 under this division in the preceding year, adding the resulting
1095 product to the corresponding income amount resulting from the
1096 adjustment in the preceding year, and rounding the resulting sum
1097 to the nearest multiple of fifty dollars. The tax commissioner
1098 also shall recompute each of the tax dollar amounts to the extent
1099 necessary to reflect the adjustment of the income amounts. The
1100 rates of taxation shall not be adjusted.

1101 The adjusted amounts apply to taxable years beginning in the
1102 calendar year in which the adjustments are made. The tax
1103 commissioner shall not make such adjustments in any year in which
1104 the amount resulting from the adjustment would be less than the
1105 amount resulting from the adjustment in the preceding year.

1106 (B) If the director of budget and management makes a
1107 certification to the tax commissioner under division (B) of
1108 section 131.44 of the Revised Code, the amount of tax as
1109 determined under division (A) of this section shall be reduced by
1110 the percentage prescribed in that certification for taxable years
1111 beginning in the calendar year in which that certification is
1112 made.

1113 (C) The levy of this tax on income does not prevent a
1114 municipal corporation, a joint economic development zone created
1115 under section 715.691, or a joint economic development district
1116 created under section 715.70 or 715.71 or sections 715.72 to
1117 715.81 of the Revised Code from levying a tax on income.

1118 (D) This division applies only to taxable years of a trust
1119 beginning in 2002 or thereafter.

1120 (1) The tax imposed by this section on a trust shall be
1121 computed by multiplying the Ohio modified taxable income of the

trust by the rates prescribed by division (A) of this section. 1122

(2) A credit is allowed against the tax computed under 1123
division (D) of this section equal to the lesser of (1) the tax 1124
paid to another state or the District of Columbia on the trust's 1125
modified nonbusiness income, other than the portion of the trust's 1126
nonbusiness income that is qualifying investment income as defined 1127
in section 5747.012 of the Revised Code, or (2) the effective tax 1128
rate, based on modified Ohio taxable income, multiplied by the 1129
trust's modified nonbusiness income other than the portion of 1130
trust's nonbusiness income that is qualifying investment income. 1131
The credit applies before any other applicable credits. 1132

(3) The credits enumerated in divisions (A)(1) to (13) of 1133
section 5747.98 of the Revised Code do not apply to a trust 1134
subject to this division. Any credits enumerated in other 1135
divisions of section 5747.98 of the Revised Code apply to a trust 1136
subject to this division. To the extent that the trust distributes 1137
income for the taxable year for which a credit is available to the 1138
trust, the credit shall be shared by the trust and its 1139
beneficiaries. The tax commissioner and the trust shall be guided 1140
by applicable regulations of the United States treasury regarding 1141
the sharing of credits. 1142

(E) For the purposes of this section, "trust" means any trust 1143
described in Subchapter J of Chapter 1 of the Internal Revenue 1144
Code, excluding trusts that are not irrevocable as defined in 1145
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1146
have no modified Ohio taxable income for the taxable year, 1147
charitable remainder trusts, qualified funeral trusts and preneed 1148
funeral contract trusts established pursuant to section ~~1111.19~~ 1149
4717.31 of the Revised Code that are not qualified funeral trusts, 1150
endowment and perpetual care trusts, qualified settlement trusts 1151
and funds, designated settlement trusts and funds, and trusts 1152
exempted from taxation under section 501(a) of the Internal 1153

Revenue Code. 1154

Section 2. That existing sections 1151.345, 1161.59, 1733.51, 1155
2108.81, 2117.251, 3103.03, 3905.451, 4717.01, 4717.03, 4717.04, 1156
4717.13, 4717.99, and 5747.02 and sections 1111.19 and 1111.99 of 1157
the Revised Code are hereby repealed. 1158