

**As Reported by the House Commerce and Labor Committee**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. S. B. No. 196**

**Senator Schaffer**

**Cosponsors: Senators Carey, Cates, Schuler, Austria, Fedor, Harris,  
Jacobson, Kearney, Mason, Mumper, Niehaus, Padgett, Roberts, Sawyer,  
Smith, Spada, Wagoner**

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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, 3901.04, 3901.21, 2  
3905.451, 3923.80, 4717.01, 4717.03, 4717.13, 3  
4717.14, 4717.99, and 5747.02, to enact sections 4  
4717.31 to 4717.38, and to repeal sections 1111.19 5  
and 1111.99 of the Revised Code to revise the 6  
Preneed Funeral Contract Law and to exempt the 7  
requirement that health insurers cover routine 8  
patient care administered during a cancer clinical 9  
trial from the requirements regarding mandated 10  
health benefit review. 11  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1151.345, 1161.59, 1733.51, 2108.81, 13  
2117.251, 3103.03, 3901.04, 3901.21, 3905.451, 3923.80, 4717.01, 14  
4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 be amended and 15  
sections 4717.31, 4717.32, 4717.33, 4717.34, 4717.35, 4717.36, 16  
4717.37, and 4717.38 of the Revised Code be enacted to read as 17  
follows: 18

**Sec. 1151.345.** A savings and loan association, in accordance 19  
with sections ~~1111.19~~ and 1721.211 and 4717.31 to 4717.38 of the 20  
Revised Code, may receive and hold on deposit moneys under a 21  
preneed funeral contract or a preneed cemetery merchandise and 22  
services contract. 23

**Sec. 1161.59.** In accordance with sections ~~1111.19~~ and 24  
1721.211 and 4717.31 to 4717.38 of the Revised Code, a savings 25  
bank may receive and hold on deposit moneys under a preneed 26  
funeral contract or a preneed cemetery merchandise and services 27  
contract. 28

**Sec. 1733.51.** A credit union may, subject to sections ~~1111.19~~ 29  
~~and~~ 1721.211 and 4717.31 to 4717.38 of the Revised Code, receive 30  
and hold on deposit moneys under a preneed funeral contract or 31  
preneed cemetery merchandise and services contract. 32

**Sec. 2108.81.** (A) If either of the following is true, 33  
division (B) of this section shall apply: 34

(1) An adult has not executed a written declaration pursuant 35  
to sections 2108.70 to 2108.73 of the Revised Code that remains in 36  
force at the time of the adult's death. 37

(2) Each person to whom the right of disposition has been 38  
assigned or reassigned pursuant to a written declaration is 39  
disqualified from exercising the right as described in section 40  
2108.75 of the Revised Code. 41

(B) Subject to division (A) of this section and sections 42  
2108.75 and 2108.79 of the Revised Code, the right of disposition 43  
is assigned to the following persons, if mentally competent adults 44  
who can be located with reasonable effort, in the order of 45  
priority stated: 46

(1) The deceased person's surviving spouse;	47
(2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;	48 49 50
(3) The deceased person's surviving parent or parents;	51
(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;	52 53 54 55
(5) The deceased person's surviving grandparent or grandparents;	56 57
(6) <u>The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren collectively;</u>	58 59 60
(7) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;	61 62 63
<del>(7)</del> (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;	64 65 66
<del>(8)</del> (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 <del>(7)</del> (8) of this section.	67 68 69 70 71 72
(10) <u>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</u>	73 74 75 76

arranging the final disposition of the remains of the deceased 77  
person. 78

**Sec. 2117.251.** A claim under the bill of a funeral director 79  
pursuant to section 2117.25 of the Revised Code arises subsequent 80  
to the death of the decedent and is not in satisfaction of a 81  
personal obligation of the individual during the individual's 82  
lifetime. If a decedent during the decedent's lifetime has 83  
purchased an irrevocable preneed funeral contract pursuant to 84  
section ~~1111.19~~ 4717.34 of the Revised Code, then those provisions 85  
of section 2117.25 of the Revised Code that relate to the bill of 86  
a funeral director, including divisions (A) and (B) of that 87  
section, do not apply to the estate of the decedent and the estate 88  
is not liable for the funeral expenses of the decedent. 89

**Sec. 3103.03.** (A) Each married person must support the 90  
person's self and spouse out of the person's property or by the 91  
person's labor. If a married person is unable to do so, the spouse 92  
of the married person must assist in the support so far as the 93  
spouse is able. The biological or adoptive parent of a minor child 94  
must support the parent's minor children out of the parent's 95  
property or by the parent's labor. 96

(B) Notwithstanding section 3109.01 of the Revised Code and 97  
to the extent provided in section ~~3319.86~~ 3119.86 of the Revised 98  
Code, the parental duty of support to children shall continue 99  
beyond the age of majority as long as the child continuously 100  
attends on a full-time basis any recognized and accredited high 101  
school. That duty of support shall continue during seasonal 102  
vacation periods. 103

(C) If a married person neglects to support the person's 104  
spouse in accordance with this section, any other person, in good 105  
faith, may supply the spouse with necessaries for the support of 106

the spouse and recover the reasonable value of the necessaries 107  
supplied from the married person who neglected to support the 108  
spouse unless the spouse abandons that person without cause. 109

(D) If a parent neglects to support the parent's minor child 110  
in accordance with this section and if the minor child in question 111  
is unemancipated, any other person, in good faith, may supply the 112  
minor child with necessaries for the support of the minor child 113  
and recover the reasonable value of the necessaries supplied from 114  
the parent who neglected to support the minor child. 115

(E) If a decedent during the decedent's lifetime has 116  
purchased an irrevocable preneed funeral contract pursuant to 117  
section ~~1109.75~~ 4717.34 of the Revised Code, then the duty of 118  
support owed to a spouse pursuant to this section does not include 119  
an obligation to pay for the funeral expenses of the deceased 120  
spouse. This division does not preclude a surviving spouse from 121  
assuming by contract the obligation to pay for the funeral 122  
expenses of the deceased spouse. 123

**Sec. 3901.04.** (A) As used in this section: 124

(1) "Laws of this state relating to insurance" include but 125  
are not limited to Chapter 1751. notwithstanding section 1751.08, 126  
Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and 127  
Chapter 5729. of the Revised Code. Sections 4717.31, 4717.33, 128  
4717.34, 4717.35, and 4717.37 of the Revised Code are "laws of 129  
this state relating to insurance" to the extent those sections 130  
apply to insurance companies or insurance agents. 131

(2) "Person" has the meaning defined in division (A) of 132  
section 3901.19 of the Revised Code. 133

(B) Whenever it appears to the superintendent of insurance, 134  
from the superintendent's files, upon complaint or otherwise, that 135  
any person has engaged in, is engaged in, or is about to engage in 136

any act or practice declared to be illegal or prohibited by the 137  
laws of this state relating to insurance, or defined as unfair or 138  
deceptive by such laws, or when the superintendent believes it to 139  
be in the best interest of the public and necessary for the 140  
protection of the people in this state, the superintendent or 141  
anyone designated by the superintendent under the superintendent's 142  
official seal may do any one or more of the following: 143

(1) Require any person to file with the superintendent, on a 144  
form that is appropriate for review by the superintendent, an 145  
original or additional statement or report in writing, under oath 146  
or otherwise, as to any facts or circumstances concerning the 147  
person's conduct of the business of insurance within this state 148  
and as to any other information that the superintendent considers 149  
to be material or relevant to such business; 150

(2) Administer oaths, summon and compel by order or subpoena 151  
the attendance of witnesses to testify in relation to any matter 152  
which, by the laws of this state relating to insurance, is the 153  
subject of inquiry and investigation, and require the production 154  
of any book, paper, or document pertaining to such matter. A 155  
subpoena, notice, or order under this section may be served by 156  
certified mail, return receipt requested. If the subpoena, notice, 157  
or order is returned because of inability to deliver, or if no 158  
return is received within thirty days of the date of mailing, the 159  
subpoena, notice, or order may be served by ordinary mail. If no 160  
return of ordinary mail is received within thirty days after the 161  
date of mailing, service shall be deemed to have been made. If the 162  
subpoena, notice, or order is returned because of inability to 163  
deliver, the superintendent may designate a person or persons to 164  
effect either personal or residence service upon the witness. 165  
Service of any subpoena, notice, or order and return may also be 166  
made in any manner authorized under the Rules of Civil Procedure. 167  
Such service shall be made by an employee of the department 168

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 201  
deceptive acts or practices in the business of insurance: 202

(A) Making, issuing, circulating, or causing or permitting to 203  
be made, issued, or circulated, or preparing with intent to so 204  
use, any estimate, illustration, circular, or statement 205  
misrepresenting the terms of any policy issued or to be issued or 206  
the benefits or advantages promised thereby or the dividends or 207  
share of the surplus to be received thereon, or making any false 208  
or misleading statements as to the dividends or share of surplus 209  
previously paid on similar policies, or making any misleading 210  
representation or any misrepresentation as to the financial 211  
condition of any insurer as shown by the last preceding verified 212  
statement made by it to the insurance department of this state, or 213  
as to the legal reserve system upon which any life insurer 214  
operates, or using any name or title of any policy or class of 215  
policies misrepresenting the true nature thereof, or making any 216  
misrepresentation or incomplete comparison to any person for the 217  
purpose of inducing or tending to induce such person to purchase, 218  
amend, lapse, forfeit, change, or surrender insurance. 219

Any written statement concerning the premiums for a policy 220  
which refers to the net cost after credit for an assumed dividend, 221  
without an accurate written statement of the gross premiums, cash 222  
values, and dividends based on the insurer's current dividend 223  
scale, which are used to compute the net cost for such policy, and 224  
a prominent warning that the rate of dividend is not guaranteed, 225  
is a misrepresentation for the purposes of this division. 226

(B) Making, publishing, disseminating, circulating, or 227  
placing before the public or causing, directly or indirectly, to 228  
be made, published, disseminated, circulated, or placed before the 229  
public, in a newspaper, magazine, or other publication, or in the 230  
form of a notice, circular, pamphlet, letter, or poster, or over 231



any radio station, or in any other way, or preparing with intent 232  
to so use, an advertisement, announcement, or statement containing 233  
any assertion, representation, or statement, with respect to the 234  
business of insurance or with respect to any person in the conduct 235  
of the person's insurance business, which is untrue, deceptive, or 236  
misleading. 237

(C) Making, publishing, disseminating, or circulating, 238  
directly or indirectly, or aiding, abetting, or encouraging the 239  
making, publishing, disseminating, or circulating, or preparing 240  
with intent to so use, any statement, pamphlet, circular, article, 241  
or literature, which is false as to the financial condition of an 242  
insurer and which is calculated to injure any person engaged in 243  
the business of insurance. 244

(D) Filing with any supervisory or other public official, or 245  
making, publishing, disseminating, circulating, or delivering to 246  
any person, or placing before the public, or causing directly or 247  
indirectly to be made, published, disseminated, circulated, 248  
delivered to any person, or placed before the public, any false 249  
statement of financial condition of an insurer. 250

Making any false entry in any book, report, or statement of 251  
any insurer with intent to deceive any agent or examiner lawfully 252  
appointed to examine into its condition or into any of its 253  
affairs, or any public official to whom such insurer is required 254  
by law to report, or who has authority by law to examine into its 255  
condition or into any of its affairs, or, with like intent, 256  
willfully omitting to make a true entry of any material fact 257  
pertaining to the business of such insurer in any book, report, or 258  
statement of such insurer, or mutilating, destroying, suppressing, 259  
withholding, or concealing any of its records. 260

(E) Issuing or delivering or permitting agents, officers, or 261  
employees to issue or deliver agency company stock or other 262  
capital stock or benefit certificates or shares in any common-law 263

corporation or securities or any special or advisory board 264  
contracts or other contracts of any kind promising returns and 265  
profits as an inducement to insurance. 266

(F) Making or permitting any unfair discrimination among 267  
individuals of the same class and equal expectation of life in the 268  
rates charged for any contract of life insurance or of life 269  
annuity or in the dividends or other benefits payable thereon, or 270  
in any other of the terms and conditions of such contract. 271

(G)(1) Except as otherwise expressly provided by law, 272  
knowingly permitting or offering to make or making any contract of 273  
life insurance, life annuity or accident and health insurance, or 274  
agreement as to such contract other than as plainly expressed in 275  
the contract issued thereon, or paying or allowing, or giving or 276  
offering to pay, allow, or give, directly or indirectly, as 277  
inducement to such insurance, or annuity, any rebate of premiums 278  
payable on the contract, or any special favor or advantage in the 279  
dividends or other benefits thereon, or any valuable consideration 280  
or inducement whatever not specified in the contract; or giving, 281  
or selling, or purchasing, or offering to give, sell, or purchase, 282  
as inducement to such insurance or annuity or in connection 283  
therewith, any stocks, bonds, or other securities, or other 284  
obligations of any insurance company or other corporation, 285  
association, or partnership, or any dividends or profits accrued 286  
thereon, or anything of value whatsoever not specified in the 287  
contract. 288

(2) Nothing in division (F) or division (G)(1) of this 289  
section shall be construed as prohibiting any of the following 290  
practices: (a) in the case of any contract of life insurance or 291  
life annuity, paying bonuses to policyholders or otherwise abating 292  
their premiums in whole or in part out of surplus accumulated from 293  
nonparticipating insurance, provided that any such bonuses or 294  
abatements of premiums shall be fair and equitable to policyholders 295

and for the best interests of the company and its policyholders; 296  
(b) in the case of life insurance policies issued on the 297  
industrial debit plan, making allowance to policyholders who have 298  
continuously for a specified period made premium payments directly 299  
to an office of the insurer in an amount which fairly represents 300  
the saving in collection expenses; (c) readjustment of the rate of 301  
premium for a group insurance policy based on the loss or expense 302  
experience thereunder, at the end of the first or any subsequent 303  
policy year of insurance thereunder, which may be made retroactive 304  
only for such policy year. 305

(H) Making, issuing, circulating, or causing or permitting to 306  
be made, issued, or circulated, or preparing with intent to so 307  
use, any statement to the effect that a policy of life insurance 308  
is, is the equivalent of, or represents shares of capital stock or 309  
any rights or options to subscribe for or otherwise acquire any 310  
such shares in the life insurance company issuing that policy or 311  
any other company. 312

(I) Making, issuing, circulating, or causing or permitting to 313  
be made, issued or circulated, or preparing with intent to so 314  
issue, any statement to the effect that payments to a policyholder 315  
of the principal amounts of a pure endowment are other than 316  
payments of a specific benefit for which specific premiums have 317  
been paid. 318

(J) Making, issuing, circulating, or causing or permitting to 319  
be made, issued, or circulated, or preparing with intent to so 320  
use, any statement to the effect that any insurance company was 321  
required to change a policy form or related material to comply 322  
with Title XXXIX of the Revised Code or any regulation of the 323  
superintendent of insurance, for the purpose of inducing or 324  
intending to induce any policyholder or prospective policyholder 325  
to purchase, amend, lapse, forfeit, change, or surrender 326  
insurance. 327

(K) Aiding or abetting another to violate this section.	328
(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.	329 330 331 332
(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.	333 334 335 336 337 338 339
(N) Refusing to make available disability income insurance solely because the applicant's principal occupation is that of managing a household.	340 341 342
(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.	343 344 345 346 347 348 349 350 351 352 353 354 355
For purposes of division (O) of this section, "federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.	356 357 358

(P) Using, or permitting to be used, a pattern settlement as 359  
the basis of any offer of settlement. As used in this division, 360  
"pattern settlement" means a method by which liability is 361  
routinely imputed to a claimant without an investigation of the 362  
particular occurrence upon which the claim is based and by using a 363  
predetermined formula for the assignment of liability arising out 364  
of occurrences of a similar nature. Nothing in this division shall 365  
be construed to prohibit an insurer from determining a claimant's 366  
liability by applying formulas or guidelines to the facts and 367  
circumstances disclosed by the insurer's investigation of the 368  
particular occurrence upon which a claim is based. 369

(Q) Refusing to insure, or refusing to continue to insure, or 370  
limiting the amount, extent, or kind of life or sickness and 371  
accident insurance or annuity coverage available to an individual, 372  
or charging an individual a different rate for the same coverage 373  
solely because of blindness or partial blindness. With respect to 374  
all other conditions, including the underlying cause of blindness 375  
or partial blindness, persons who are blind or partially blind 376  
shall be subject to the same standards of sound actuarial 377  
principles or actual or reasonably anticipated actuarial 378  
experience as are sighted persons. Refusal to insure includes, but 379  
is not limited to, denial by an insurer of disability insurance 380  
coverage on the grounds that the policy defines "disability" as 381  
being presumed in the event that the eyesight of the insured is 382  
lost. However, an insurer may exclude from coverage disabilities 383  
consisting solely of blindness or partial blindness when such 384  
conditions existed at the time the policy was issued. To the 385  
extent that the provisions of this division may appear to conflict 386  
with any provision of section 3999.16 of the Revised Code, this 387  
division applies. 388

(R)(1) Directly or indirectly offering to sell, selling, or 389  
delivering, issuing for delivery, renewing, or using or otherwise 390

marketing any policy of insurance or insurance product in 391  
connection with or in any way related to the grant of a student 392  
loan guaranteed in whole or in part by an agency or commission of 393  
this state or the United States, except insurance that is required 394  
under federal or state law as a condition for obtaining such a 395  
loan and the premium for which is included in the fees and charges 396  
applicable to the loan; or, in the case of an insurer or insurance 397  
agent, knowingly permitting any lender making such loans to engage 398  
in such acts or practices in connection with the insurer's or 399  
agent's insurance business. 400

(2) Except in the case of a violation of division (G) of this 401  
section, division (R)(1) of this section does not apply to either 402  
of the following: 403

(a) Acts or practices of an insurer, its agents, 404  
representatives, or employees in connection with the grant of a 405  
guaranteed student loan to its insured or the insured's spouse or 406  
dependent children where such acts or practices take place more 407  
than ninety days after the effective date of the insurance; 408

(b) Acts or practices of an insurer, its agents, 409  
representatives, or employees in connection with the solicitation, 410  
processing, or issuance of an insurance policy or product covering 411  
the student loan borrower or the borrower's spouse or dependent 412  
children, where such acts or practices take place more than one 413  
hundred eighty days after the date on which the borrower is 414  
notified that the student loan was approved. 415

(S) Denying coverage, under any health insurance or health 416  
care policy, contract, or plan providing family coverage, to any 417  
natural or adopted child of the named insured or subscriber solely 418  
on the basis that the child does not reside in the household of 419  
the named insured or subscriber. 420

(T)(1) Using any underwriting standard or engaging in any 421

other act or practice that, directly or indirectly, due solely to 422  
any health status-related factor in relation to one or more 423  
individuals, does either of the following: 424

(a) Terminates or fails to renew an existing individual 425  
policy, contract, or plan of health benefits, or a health benefit 426  
plan issued to an employer, for which an individual would 427  
otherwise be eligible; 428

(b) With respect to a health benefit plan issued to an 429  
employer, excludes or causes the exclusion of an individual from 430  
coverage under an existing employer-provided policy, contract, or 431  
plan of health benefits. 432

(2) The superintendent of insurance may adopt rules in 433  
accordance with Chapter 119. of the Revised Code for purposes of 434  
implementing division (T)(1) of this section. 435

(3) For purposes of division (T)(1) of this section, "health 436  
status-related factor" means any of the following: 437

(a) Health status; 438

(b) Medical condition, including both physical and mental 439  
illnesses; 440

(c) Claims experience; 441

(d) Receipt of health care; 442

(e) Medical history; 443

(f) Genetic information; 444

(g) Evidence of insurability, including conditions arising 445  
out of acts of domestic violence; 446

(h) Disability. 447

(U) With respect to a health benefit plan issued to a small 448  
employer, as those terms are defined in section 3924.01 of the 449  
Revised Code, negligently or willfully placing coverage for 450

adverse risks with a certain carrier, as defined in section 451  
3924.01 of the Revised Code. 452

(V) Using any program, scheme, device, or other unfair act or 453  
practice that, directly or indirectly, causes or results in the 454  
placing of coverage for adverse risks with another carrier, as 455  
defined in section 3924.01 of the Revised Code. 456

(W) Failing to comply with section 3923.23, 3923.231, 457  
3923.232, 3923.233, or 3923.234 of the Revised Code by engaging in 458  
any unfair, discriminatory reimbursement practice. 459

(X) Intentionally establishing an unfair premium for, or 460  
misrepresenting the cost of, any insurance policy financed under a 461  
premium finance agreement of an insurance premium finance company. 462

(Y)(1)(a) Limiting coverage under, refusing to issue, 463  
canceling, or refusing to renew, any individual policy or contract 464  
of life insurance, or limiting coverage under or refusing to issue 465  
any individual policy or contract of health insurance, for the 466  
reason that the insured or applicant for insurance is or has been 467  
a victim of domestic violence; 468

(b) Adding a surcharge or rating factor to a premium of any 469  
individual policy or contract of life or health insurance for the 470  
reason that the insured or applicant for insurance is or has been 471  
a victim of domestic violence; 472

(c) Denying coverage under, or limiting coverage under, any 473  
policy or contract of life or health insurance, for the reason 474  
that a claim under the policy or contract arises from an incident 475  
of domestic violence; 476

(d) Inquiring, directly or indirectly, of an insured under, 477  
or of an applicant for, a policy or contract of life or health 478  
insurance, as to whether the insured or applicant is or has been a 479  
victim of domestic violence, or inquiring as to whether the 480  
insured or applicant has sought shelter or protection from 481



domestic violence or has sought medical or psychological treatment 482  
as a victim of domestic violence. 483

(2) Nothing in division (Y)(1) of this section shall be 484  
construed to prohibit an insurer from inquiring as to, or from 485  
underwriting or rating a risk on the basis of, a person's physical 486  
or mental condition, even if the condition has been caused by 487  
domestic violence, provided that all of the following apply: 488

(a) The insurer routinely considers the condition in 489  
underwriting or in rating risks, and does so in the same manner 490  
for a victim of domestic violence as for an insured or applicant 491  
who is not a victim of domestic violence; 492

(b) The insurer does not refuse to issue any policy or 493  
contract of life or health insurance or cancel or refuse to renew 494  
any policy or contract of life insurance, solely on the basis of 495  
the condition, except where such refusal to issue, cancellation, 496  
or refusal to renew is based on sound actuarial principles or is 497  
related to actual or reasonably anticipated experience; 498

(c) The insurer does not consider a person's status as being 499  
or as having been a victim of domestic violence, in itself, to be 500  
a physical or mental condition; 501

(d) The underwriting or rating of a risk on the basis of the 502  
condition is not used to evade the intent of division (Y)(1) of 503  
this section, or of any other provision of the Revised Code. 504

(3)(a) Nothing in division (Y)(1) of this section shall be 505  
construed to prohibit an insurer from refusing to issue a policy 506  
or contract of life insurance insuring the life of a person who is 507  
or has been a victim of domestic violence if the person who 508  
committed the act of domestic violence is the applicant for the 509  
insurance or would be the owner of the insurance policy or 510  
contract. 511

(b) Nothing in division (Y)(2) of this section shall be 512

construed to permit an insurer to cancel or refuse to renew any 513  
policy or contract of health insurance in violation of the "Health 514  
Insurance Portability and Accountability Act of 1996," 110 Stat. 515  
1955, 42 U.S.C.A. 300gg-41(b), as amended, or in a manner that 516  
violates or is inconsistent with any provision of the Revised Code 517  
that implements the "Health Insurance Portability and 518  
Accountability Act of 1996." 519

(4) An insurer is immune from any civil or criminal liability 520  
that otherwise might be incurred or imposed as a result of any 521  
action taken by the insurer to comply with division (Y) of this 522  
section. 523

(5) As used in division (Y) of this section, "domestic 524  
violence" means any of the following acts: 525

(a) Knowingly causing or attempting to cause physical harm to 526  
a family or household member; 527

(b) Recklessly causing serious physical harm to a family or 528  
household member; 529

(c) Knowingly causing, by threat of force, a family or 530  
household member to believe that the person will cause imminent 531  
physical harm to the family or household member. 532

For the purpose of division (Y)(5) of this section, "family 533  
or household member" has the same meaning as in section 2919.25 of 534  
the Revised Code. 535

Nothing in division (Y)(5) of this section shall be construed 536  
to require, as a condition to the application of division (Y) of 537  
this section, that the act described in division (Y)(5) of this 538  
section be the basis of a criminal prosecution. 539

(Z) Disclosing a coroner's records by an insurer in violation 540  
of section 313.10 of the Revised Code. 541

(AA) Making, issuing, circulating, or causing or permitting 542

to be made, issued, or circulated any statement or representation 543  
that a life insurance policy or annuity is a contract for the 544  
purchase of funeral goods or services. 545

With respect to private passenger automobile insurance, no 546  
insurer shall charge different premium rates to persons residing 547  
within the limits of any municipal corporation based solely on the 548  
location of the residence of the insured within those limits. 549

The enumeration in sections 3901.19 to 3901.26 of the Revised 550  
Code of specific unfair or deceptive acts or practices in the 551  
business of insurance is not exclusive or restrictive or intended 552  
to limit the powers of the superintendent of insurance to adopt 553  
rules to implement this section, or to take action under other 554  
sections of the Revised Code. 555

This section does not prohibit the sale of shares of any 556  
investment company registered under the "Investment Company Act of 557  
1940," 54 Stat. 789, 15 U.S.C.A. 80a-1, as amended, or any 558  
policies, annuities, or other contracts described in section 559  
3907.15 of the Revised Code. 560

As used in this section, "estimate," "statement," 561  
"representation," "misrepresentation," "advertisement," or 562  
"announcement" includes oral or written occurrences. 563

**Sec. 3905.451.** A life insurance policy or annuity that is 564  
issued, sold, or assigned for the purpose of purchasing funeral or 565  
burial goods or services, and the contractual obligation to 566  
provide the goods or services, are not subject to section ~~1111.19~~ 567  
4717.36 of the Revised Code. 568

**Sec. 3923.80.** (A) ~~No~~ Notwithstanding section 3901.71 of the 569  
Revised Code, no health benefit plan or public employee benefit 570  
plan shall deny coverage for the costs of any routine patient care 571  
administered to an insured participating in any stage of an 572

eligible cancer clinical trial, if that care would be covered 573  
under the plan if the insured was not participating in a clinical 574  
trial. 575

(B) The coverage that may not be excluded under division (A) 576  
of this section is subject to all terms, conditions, restrictions, 577  
exclusions, and limitations that apply to any other coverage under 578  
the plan, policy, or arrangement for services performed by 579  
participating and nonparticipating providers. Nothing in this 580  
section shall be construed as requiring reimbursement to a 581  
provider or facility providing the routine care that does not have 582  
a health care contract with the entity issuing the health benefit 583  
plan or public employee benefit plan, or as prohibiting the entity 584  
issuing a health benefit plan or public employee benefit plan that 585  
does not have a health care contract with the provider or facility 586  
providing the routine care from negotiating a single case or other 587  
agreement for coverage. 588

(C) As used in this section: 589

(1) "Eligible cancer clinical trial" means a cancer clinical 590  
trial that meets all of the following criteria: 591

(a) A purpose of the trial is to test whether the 592  
intervention potentially improves the trial participant's health 593  
outcomes. 594

(b) The treatment provided as part of the trial is given with 595  
the intention of improving the trial participant's health 596  
outcomes. 597

(c) The trial has a therapeutic intent and is not designed 598  
exclusively to test toxicity or disease pathophysiology. 599

(d) The trial does one of the following: 600

(i) Tests how to administer a health care service, item, or 601  
drug for the treatment of cancer; 602

(ii) Tests responses to a health care service, item, or drug for the treatment of cancer;	603 604
(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;	605 606 607
(iv) Studies new uses of a health care service, item, or drug for the treatment of cancer.	608 609
(e) The trial is approved by one of the following entities:	610
(i) The national institutes of health or one of its cooperative groups or centers under the United States department of health and human services;	611 612 613
(ii) The United States food and drug administration;	614
(iii) The United States department of defense;	615
(iv) The United States department of veterans' affairs.	616
(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.	617 618 619
(3) "Health benefit plan" has the same meaning as in section 3924.01 of the Revised Code.	620 621
(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.	622 623 624 625 626 627 628
(5) For purposes of this section, a health benefit plan or public employee benefit plan may exclude coverage for any of the following:	629 630 631

(a) A health care service, item, or drug that is the subject of the cancer clinical trial; 632  
633

(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; 634  
635  
636  
637

(c) An investigational or experimental drug or device that has not been approved for market by the United States food and drug administration; 638  
639  
640

(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; 641  
642  
643  
644

(e) An item or drug provided by the cancer clinical trial sponsors free of charge for any patient; 645  
646

(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. 647  
648  
649

**Sec. 4717.01.** As used in this chapter: 650

(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. 651  
652  
653

(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. 654  
655  
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(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 659  
660  
661

funeral service contract, the business or profession of preparing 662  
dead human bodies for burial by means other than embalming, the 663  
disposition of dead human bodies, the provision or maintenance of 664  
a place for the preparation, the care, or disposition of dead 665  
human bodies, the use in connection with a business of the term 666  
"funeral director," "undertaker," "mortician," or any other term 667  
from which can be implied the business of funeral directing, or 668  
the holding out to the public that one is a funeral director or a 669  
disposer of dead human bodies. 670

(D) "Funeral home" means a fixed place for the care, 671  
preparation for burial, or disposition of dead human bodies or the 672  
conducting of funerals. Each business location is a funeral home, 673  
regardless of common ownership or management. 674

(E) "Embalmer" means a person who engages, in whole or in 675  
part, in embalming and who is licensed under this chapter. 676

(F) "Funeral director" means a person who engages, in whole 677  
or in part, in funeral directing and who is licensed under this 678  
chapter. 679

(G) "Final disposition" has the same meaning as in division 680  
(J) of section 3705.01 of the Revised Code. 681

(H) "Supervision" means the operation of all phases of the 682  
business of funeral directing or embalming under the specific 683  
direction of a licensed funeral director or licensed embalmer. 684

(I) "Direct supervision" means the physical presence of a 685  
licensed funeral director or licensed embalmer while the specific 686  
functions of the funeral or embalming are being carried out. 687

(J) "Embalming facility" means a fixed location, separate 688  
from the funeral home, that is licensed under this chapter whose 689  
only function is the embalming and preparation of dead human 690  
bodies. 691

(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. 723

(R) "Processing" means the reduction of identifiable bone 724  
fragments to unidentifiable bone fragments through manual or 725  
mechanical means after the completion of the cremation process. 726

(S) "Pulverization" means the reduction of identifiable bone 727  
fragments to granulated particles by manual or mechanical means 728  
after the completion of the cremation process. 729

(T) "Preneed funeral contract" means a written agreement, 730  
contract, or series of contracts to sell or otherwise provide any 731  
funeral services, funeral goods, or any combination thereof to be 732  
used in connection with the funeral or final disposition of a dead 733  
human body, where payment for the goods or services is made either 734  
outright or on an installment basis, prior to the death of the 735  
person purchasing the goods or services or for whom the goods or 736  
services are purchased. "Preneed funeral contract" does not 737  
include any preneed cemetery merchandise and services contract or 738  
any agreement, contract, or series of contracts pertaining to the 739  
sale of any burial lot, burial or interment right, entombment 740  
right, or columbarium right with respect to which an endowment 741  
care fund is established or is exempt from establishment pursuant 742  
to section 1721.21 of the Revised Code. 743

For the purposes of division (T) of this section, "funeral 744  
goods" includes caskets. 745

(U) "Purchaser" means the individual who has purchased and 746  
financed a preneed funeral contract, and who may or may not be the 747  
contract beneficiary. 748

(V) "Contract beneficiary" means the individual for whom 749  
funeral goods and funeral services are provided pursuant to a 750  
preneed funeral contract. 751

(W) "Seller" means any person that enters into a preneed 752  
funeral contract with a purchaser for the provision of funeral 753

goods, funeral services, or both. 754

**Sec. 4717.03.** (A) Members of the board of embalmers and 755  
funeral directors shall annually in July, or within thirty days 756  
after the senate's confirmation of the new members appointed in 757  
that year, meet and organize by selecting from among its members a 758  
president, vice-president, and secretary-treasurer. The board may 759  
hold other meetings as it determines necessary. A quorum of the 760  
board consists of four members, of whom at least three shall be 761  
members who are embalmers and funeral directors. The concurrence 762  
of at least four members is necessary for the board to take any 763  
action. The president and secretary-treasurer shall sign all 764  
licenses issued under this chapter and affix the board's seal to 765  
each license. 766

(B) The board may appoint an individual who is not a member 767  
of the board to serve as executive director of the board. The 768  
executive director serves at the pleasure of the board and shall 769  
do all of the following: 770

- (1) Serve as the board's chief administrative officer; 771
- (2) Act as custodian of the board's records; 772
- (3) Execute all of the board's orders. 773

In executing the board's orders, the executive director may 774  
enter the premises, establishment, office, or place of business of 775  
any embalmer, funeral director, or operator of a crematory 776  
facility in this state. The executive director may serve and 777  
execute any process issued by any court under this chapter. 778

(C) The board may employ clerical or technical staff who are 779  
not members of the board and who serve at the pleasure of the 780  
board to provide any clerical or technical assistance the board 781  
considers necessary. The board may employ necessary inspectors, 782  
who shall be licensed embalmers and funeral directors. Any 783

inspector employed by the board may enter the premises, 784  
establishment, office, or place of business of any embalmer, 785  
funeral director, or operator of a crematory facility in this 786  
state, for the purposes of inspecting the facility and premises; 787  
the license and registration of embalmers and funeral directors 788  
operating in the facility; and the license of the funeral home, 789  
embalming facility, or crematory. The inspector shall serve and 790  
execute any process issued by any court under this chapter, serve 791  
and execute any papers or process issued by the board or any 792  
officer or member of the board, and perform any other duties 793  
delegated by the board. 794

(D) The president of the board shall designate three of its 795  
members to serve on the crematory review board, which is hereby 796  
created, for such time as the president finds appropriate to carry 797  
out the provisions of this chapter. Those members of the crematory 798  
review board designated by the president to serve and three 799  
members designated by the cemetery dispute resolution commission 800  
shall designate, by a majority vote, one person who is experienced 801  
in the operation of a crematory facility and who is not affiliated 802  
with a cemetery or a funeral home to serve on the crematory review 803  
board for such time as the crematory review board finds 804  
appropriate. Members serving on the crematory review board shall 805  
not receive any additional compensation for serving on the board, 806  
but may be reimbursed for their actual and necessary expenses 807  
incurred in the performance of official duties as members of the 808  
board. Members of the crematory review board shall designate one 809  
from among its members to serve as a chairperson for such time as 810  
the board finds appropriate. Costs associated with conducting an 811  
adjudicatory hearing in accordance with division (E) of this 812  
section shall be paid from funds available to the board of 813  
embalmers and funeral directors. 814

(E) Upon receiving written notice from the board of embalmers 815

and funeral directors of any of the following, the crematory 816  
review board shall conduct an adjudicatory hearing on the matter 817  
in accordance with Chapter 119. of the Revised Code, except as 818  
otherwise provided in this section or division (C) of section 819  
4717.14 of the Revised Code: 820

(1) Notice provided under division (H) of this section of an 821  
alleged violation of any provision of this chapter or any rules 822  
adopted under this chapter, ~~or section 1111.19 of the Revised~~ 823  
~~Code,~~ governing or in connection with crematory facilities or 824  
cremation; 825

(2) Notice provided under division (B) of section 4717.14 of 826  
the Revised Code that the board of embalmers and funeral directors 827  
proposes to refuse to grant or renew, or to suspend or revoke, a 828  
license to operate a crematory facility; 829

(3) Notice provided under division (C) of section 4717.14 of 830  
the Revised Code that the board of embalmers and funeral directors 831  
has issued an order summarily suspending a license to operate a 832  
crematory facility; 833

(4) Notice provided under division (B) of section 4717.15 of 834  
the Revised Code that the board of embalmers and funeral directors 835  
proposes to issue a notice of violation and order requiring 836  
payment of a forfeiture for any violation described in divisions 837  
(A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in 838  
connection with a crematory facility or cremation. 839

Nothing in division (E) of this section precludes the 840  
crematory review board from appointing an independent examiner in 841  
accordance with section 119.09 of the Revised Code to conduct any 842  
adjudication hearing required under division (E) of this section. 843

The crematory review board shall submit a written report of 844  
findings and advisory recommendations, and a written transcript of 845  
its proceedings, to the board of embalmers and funeral directors. 846

The board of embalmers and funeral directors shall serve a copy of 847  
the written report of the crematory review board's findings and 848  
advisory recommendations on the party to the adjudication or the 849  
party's attorney, by certified mail, within five days after 850  
receiving the report and advisory recommendations. A party may 851  
file objections to the written report with the board of embalmers 852  
and funeral directors within ten days after receiving the report. 853  
No written report is final or appealable until it is issued as a 854  
final order by the board of embalmers and funeral directors and 855  
entered on the record of the proceedings. The board of embalmers 856  
and funeral directors shall consider objections filed by the party 857  
prior to issuing a final order. After reviewing the findings and 858  
advisory recommendations of the crematory review board, the 859  
written transcript of the crematory review board's proceedings, 860  
and any objections filed by a party, the board of embalmers and 861  
funeral directors shall issue a final order in the matter. Any 862  
party may appeal the final order issued by the board of embalmers 863  
and funeral directors in a matter described in divisions (E)(1) to 864  
(4) of this section in accordance with section 119.12 of the 865  
Revised Code, except that the appeal may be made to the court of 866  
common pleas in the county in which is located the crematory 867  
facility to which the final order pertains, or in the county in 868  
which the party resides. 869

(F) On its own initiative or on receiving a written complaint 870  
from any person whose identity is made known to the board of 871  
embalmers and funeral directors, the board shall investigate the 872  
acts or practices of any person holding or claiming to hold a 873  
license or registration under this chapter that, if proven to have 874  
occurred, would violate this chapter or any rules adopted under 875  
it, ~~or section 1111.19 of the Revised Code.~~ The board may compel 876  
witnesses by subpoena to appear and testify in relation to 877  
investigations conducted under this chapter and may require by 878  
subpoena duces tecum the production of any book, paper, or 879

document pertaining to an investigation. If a person does not 880  
comply with a subpoena or subpoena duces tecum, the board may 881  
apply to the court of common pleas of any county in this state for 882  
an order compelling the person to comply with the subpoena or 883  
subpoena duces tecum, or for failure to do so, to be held in 884  
contempt of court. 885

(G) If, as a result of its investigation conducted under 886  
division (F) of this section, the board of embalmers and funeral 887  
directors has reasonable cause to believe that the person 888  
investigated is violating any provision of this chapter or any 889  
rules adopted under this chapter, ~~or section 1111.19 of the~~ 890  
~~Revised Code,~~ governing or in connection with embalming, funeral 891  
directing, funeral homes, embalming facilities, or the operation 892  
of funeral homes or embalming facilities, it may, after providing 893  
the opportunity for an adjudicatory hearing, issue an order 894  
directing the person to cease the acts or practices that 895  
constitute the violation. The board shall conduct the adjudicatory 896  
hearing in accordance with Chapter 119. of the Revised Code except 897  
that, notwithstanding the provisions of that chapter, the 898  
following shall apply: 899

(1) The board shall send the notice informing the person of 900  
the person's right to a hearing by certified mail. 901

(2) The person is entitled to a hearing only if the person 902  
requests a hearing and if the board receives the request within 903  
thirty days after the mailing of the notice described in division 904  
(G)(1) of this section. 905

(3) A stenographic record shall be taken, in the manner 906  
prescribed in section 119.09 of the Revised Code, at every 907  
adjudicatory hearing held under this section, regardless of 908  
whether the record may be the basis of an appeal to a court. 909

(H) If, as a result of its investigation conducted under 910

division (F) of this section, the board of embalmers and funeral 911  
directors has reasonable cause to believe that the person 912  
investigated is violating any provision of this chapter or any 913  
rules adopted under this chapter, ~~or section 1111.19 of the~~ 914  
~~Revised Code~~, governing or in connection with crematory facilities 915  
or cremation, the board shall send written notice of the alleged 916  
violation to the crematory review board. If, after the conclusion 917  
of the adjudicatory hearing in the matter conducted under division 918  
(E) of this section, the board of embalmers and funeral directors 919  
finds that a person is in violation of any provision of this 920  
chapter or any rules adopted under this chapter, ~~or section~~ 921  
~~1111.19 of the Revised Code~~, governing or in connection with 922  
crematory facilities or cremation, the board may issue a final 923  
order under that division directing the person to cease the acts 924  
or practices that constitute the violation. 925

(I) The board of embalmers and funeral directors may bring a 926  
civil action to enjoin any violation or threatened violation of 927  
~~section 1111.19~~; sections 4717.01 to 4717.15 of the Revised Code 928  
or a rule adopted under any of those sections; division (A) or (B) 929  
of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), 930  
(E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 931  
division (D)(1) of section 4717.27; ~~or~~ divisions (A) to (C) of 932  
section 4717.28, or division (D) or (E) of section 4717.31 of the 933  
Revised Code. The action shall be brought in the county where the 934  
violation occurred or the threatened violation is expected to 935  
occur. At the request of the board, the attorney general shall 936  
represent the board in any matter arising under this chapter. 937

(J) The board of embalmers and funeral directors and the 939  
crematory review board may issue subpoenas for funeral directors 940  
and embalmers or persons holding themselves out as such, for 941  
operators of crematory facilities or persons holding themselves 942

out as such, or for any other person whose testimony, in the 943  
opinion of either board, is necessary. The subpoena shall require 944  
the person to appear before the appropriate board or any 945  
designated member of either board, upon any hearing conducted 946  
under this chapter. The penalty for disobedience to the command of 947  
such a subpoena is the same as for refusal to answer such a 948  
process issued under authority of the court of common pleas. 949

(K) All moneys received by the board of embalmers and funeral 950  
directors from any source shall be deposited in the state treasury 951  
to the credit of the occupational licensing and regulatory fund 952  
created in section 4743.05 of the Revised Code. 953

(L) The board of embalmers and funeral directors shall submit 954  
a written report to the governor on or before the first Monday of 955  
July of each year. This report shall contain a detailed statement 956  
of the nature and amount of the board's receipts and the amount 957  
and manner of its expenditures. 958

**Sec. 4717.13.** (A) No person shall do any of the following: 959

(1) Engage in the business or profession of funeral directing 960  
unless the person is licensed as a funeral director under this 961  
chapter, is certified as an apprentice funeral director in 962  
accordance with rules adopted under section 4717.04 of the Revised 963  
Code and is assisting a funeral director licensed under this 964  
chapter, or is a student in a college of mortuary sciences 965  
approved by the board and is under the direct supervision of a 966  
funeral director licensed by the board; 967

(2) Engage in embalming unless the person is licensed as an 968  
embalmer under this chapter, is certified as an apprentice 969  
embalmer in accordance with rules adopted under section 4717.04 of 970  
the Revised Code and is assisting an embalmer licensed under this 971  
chapter, or is a student in a college of mortuary science approved 972  
by the board and is under the direct supervision of an embalmer 973



licensed by the board;	974
(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;	975 976 977 978 979 980 981
(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;	982 983 984 985 986 987 988
(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;	989 990
(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;	991 992 993
(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;	994 995 996
(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;	997 998
(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.	999 1000 1001 1002
(B) No funeral director or other person in charge of the	1003

final disposition of a dead human body shall fail to do one of the 1004  
following prior to the interment of the body: 1005

(1) Affix to the ankle or wrist of the deceased a tag encased 1006  
in a durable and long-lasting material that contains the name, 1007  
date of birth, date of death, and social security number of the 1008  
deceased; 1009

(2) Place in the casket a capsule containing a tag bearing 1010  
the information described in division (B)(1) of this section; 1011

(3) If the body was cremated, place in the vessel containing 1012  
the cremated remains a tag bearing the information described in 1013  
division (B)(1) of this section. 1014

(C) No person who holds a funeral home license for a funeral 1015  
home that is closed, or that is owned by a funeral business in 1016  
which changes in the ownership of the funeral business result in a 1017  
majority of the ownership of the funeral business being held by 1018  
one or more persons who solely or in combination with others did 1019  
not own a majority of the funeral business immediately prior to 1020  
the change in ownership, shall fail to submit to the board within 1021  
thirty days after the closing or such a change in ownership of the 1022  
funeral business owning the funeral home, a clearly enumerated 1023  
account of all of the following from which the licensee, at the 1024  
time of the closing or change in ownership of the funeral business 1025  
and in connection with the funeral home, was to receive payment 1026  
for providing funeral services, funeral goods, or any combination 1027  
of those in connection with the funeral or final disposition of a 1028  
dead human body: 1029

(1) Preneed funeral contracts governed by ~~section 1111.19~~ 1030  
sections 4717.31 to 4717.38 of the Revised Code; 1031

(2) Life insurance policies or annuities the benefits of 1032  
which are payable to the provider of funeral or burial goods or 1033  
services; 1034

(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, 1065  
to engage in the profession or business of embalming or funeral 1066  
directing under the applicant's or licensee's supervision. 1067

(6) The applicant or licensee has been habitually 1068  
intoxicated, or is addicted to the use of morphine, cocaine, or 1069  
other habit-forming or illegal drugs. 1070

(7) The applicant or licensee has refused to promptly submit 1071  
the custody of a dead human body upon the express order of the 1072  
person legally entitled to the body. 1073

(8) The licensee loaned the licensee's own license, or the 1074  
applicant or licensee borrowed or used the license of another 1075  
person, or knowingly aided or abetted the granting of an improper 1076  
license. 1077

(9) The applicant or licensee transferred a license to 1078  
operate a funeral home, embalming facility, or crematory from one 1079  
owner or operator to another, or from one location to another, 1080  
without notifying the board. 1081

(10) The applicant or licensee mislead the public by using 1082  
false or deceptive advertising. 1083

(B)(1) The board of embalmers and funeral directors shall 1084  
refuse to grant or renew, or shall suspend or revoke, an 1085  
embalmer's, funeral director's, funeral home, or embalming 1086  
facility license only in accordance with Chapter 119. of the 1087  
Revised Code. 1088

(2) The board shall send to the crematory review board 1089  
written notice that it proposes to refuse to issue or renew, or 1090  
proposes to suspend or revoke, a license to operate a crematory 1091  
facility. If, after the conclusion of the adjudicatory hearing on 1092  
the matter conducted under division (E) of section 4717.03 of the 1093  
Revised Code, the board of embalmers and funeral directors finds 1094  
that any of the circumstances described in divisions (A)(1) to 1095

(10) of this section apply to the person named in its proposed 1096  
action, the board may issue a final order under division (E) of 1097  
section 4717.03 of the Revised Code refusing to issue or renew, or 1098  
suspending or revoking, the person's license to operate a 1099  
crematory facility. 1100

(C) If the board of embalmers and funeral directors 1101  
determines that there is clear and convincing evidence that any of 1102  
the circumstances described in divisions (A)(1) to (10) of this 1103  
section apply to the holder of a license issued under this chapter 1104  
and that the licensee's continued practice presents a danger of 1105  
immediate and serious harm to the public, the board may suspend 1106  
the licensee's license without a prior adjudicatory hearing. The 1107  
executive director of the board shall prepare written allegations 1108  
for consideration by the board. 1109

The board, after reviewing the written allegations, may 1110  
suspend a license without a prior hearing. 1111

The board shall issue a written order of suspension by 1112  
certified mail or in person in accordance with section 119.07 of 1113  
the Revised Code. Such an order is not subject to suspension by 1114  
the court during the pendency of any appeal filed under section 1115  
119.12 of the Revised Code. If the holder of an embalmer's, 1116  
funeral director's, funeral home, or embalming facility license 1117  
requests an adjudicatory hearing by the board, the date set for 1118  
the hearing shall be within fifteen days, but not earlier than 1119  
seven days, after the licensee has requested a hearing, unless the 1120  
board and the licensee agree to a different time for holding the 1121  
hearing. 1122

Upon issuing a written order of suspension to the holder of a 1123  
license to operate a crematory facility, the board of embalmers 1124  
and funeral directors shall send written notice of the issuance of 1125  
the order to the crematory review board. The crematory review 1126  
board shall hold an adjudicatory hearing on the order under 1127

division (E) of section 4717.03 of the Revised Code within fifteen 1128  
days, but not earlier than seven days, after the issuance of the 1129  
order, unless the crematory review board and the licensee agree to 1130  
a different time for holding the adjudicatory hearing. 1131

Any summary suspension imposed under this division shall 1132  
remain in effect, unless reversed on appeal, until a final 1133  
adjudicatory order issued by the board of embalmers and funeral 1134  
directors pursuant to this division and Chapter 119. of the 1135  
Revised Code, or division (E) of section 4717.03 of the Revised 1136  
Code, as applicable, becomes effective. The board of embalmers and 1137  
funeral directors shall issue its final adjudicatory order within 1138  
sixty days after the completion of its hearing or, in the case of 1139  
the summary suspension of a license to operate a crematory 1140  
facility, within sixty days after completion of the adjudicatory 1141  
hearing by the crematory review board. A failure to issue the 1142  
order within that time results in the dissolution of the summary 1143  
suspension order, but does not invalidate any subsequent final 1144  
adjudicatory order. 1145

(D) If the board of embalmers and funeral directors suspends 1146  
or revokes a license held by a funeral director or a funeral home 1147  
for any reason identified in division (A) of this section, the 1148  
board may file a complaint with the court of common pleas in the 1149  
county where the violation occurred requesting appointment of a 1150  
receiver and the sequestration of the assets of the funeral home 1151  
that held the suspended or revoked license or the licensed funeral 1152  
home that employs the funeral director that held the suspended or 1153  
revoked license. If the court of common pleas is satisfied with 1154  
the application for a receivership, the court may appoint a 1155  
receiver. 1156

The board or a receiver may employ and procure whatever 1157  
assistance or advice is necessary in the receivership or 1158  
liquidation and distribution of the assets of the funeral home, 1159

and, for that purpose, may retain officers or employees of the 1160  
funeral home as needed. All expenses of the receivership or 1161  
liquidation shall be paid from the assets of the funeral home and 1162  
shall be a lien on those assets, and that lien shall be a priority 1163  
to any other lien. 1164

(E) Any holder of a license issued under this chapter who has 1165  
pleaded guilty to, has been found by a judge or jury to be guilty 1166  
of, or has had a judicial finding of eligibility for treatment in 1167  
lieu of conviction entered against the individual in this state 1168  
for aggravated murder, murder, voluntary manslaughter, felonious 1169  
assault, kidnapping, rape, sexual battery, gross sexual 1170  
imposition, aggravated arson, aggravated robbery, or aggravated 1171  
burglary, or who has pleaded guilty to, has been found by a judge 1172  
or jury to be guilty of, or has had a judicial finding of 1173  
eligibility for treatment in lieu of conviction entered against 1174  
the individual in another jurisdiction for any substantially 1175  
equivalent criminal offense, is hereby suspended from practice 1176  
under this chapter by operation of law, and any license issued to 1177  
the individual under this chapter is hereby suspended by operation 1178  
of law as of the date of the guilty plea, verdict or finding of 1179  
guilt, or judicial finding of eligibility for treatment in lieu of 1180  
conviction, regardless of whether the proceedings are brought in 1181  
this state or another jurisdiction. The board shall notify the 1182  
suspended individual of the suspension of the individual's license 1183  
by the operation of this division by certified mail or in person 1184  
in accordance with section 119.07 of the Revised Code. If an 1185  
individual whose license is suspended under this division fails to 1186  
make a timely request for an adjudicatory hearing, the board shall 1187  
enter a final order revoking the license. 1188

~~(E)~~(F) No person whose license has been suspended or revoked 1189  
under or by the operation of this section shall practice embalming 1190  
or funeral directing or operate a funeral home, embalming 1191

facility, or crematory facility until the board has reinstated the 1192  
person's license. 1193

Sec. 4717.31. (A) Only a funeral director licensed pursuant 1194  
to this chapter may sell a preneed funeral contract that includes 1195  
funeral services. Sections 4717.31 to 4717.38 of the Revised Code 1196  
do not prohibit a person who is not a licensed funeral director 1197  
from selling funeral goods pursuant to a preneed funeral contract; 1198  
however, when a seller sells funeral goods pursuant to a preneed 1199  
funeral contract, that seller shall comply with those sections 1200  
unless the seller is specifically exempt from compliance under 1201  
section 4717.38 of the Revised Code. 1202

(B) An insurance agent licensed pursuant to Chapter 3905. of 1203  
the Revised Code may sell, solicit, or negotiate the sale of an 1204  
insurance policy or annuity that will be used to fund a preneed 1205  
funeral contract, but in so doing the insurance agent may not 1206  
offer advice or make recommendations about funeral services and 1207  
may not discuss the advantages or disadvantages of any funeral 1208  
service. In selling, soliciting, or negotiating the sale of an 1209  
insurance policy or annuity that will be used to fund a preneed 1210  
funeral contract, the insurance agent may do any of the following: 1211

(1) Provide the person purchasing the insurance policy or 1212  
annuity with price lists from one or more funeral homes and other 1213  
materials that may assist the person in determining the cost of 1214  
funeral goods and services; 1215

(2) Discuss the cost of funeral goods and services with the 1216  
person in order to assist the person in selecting the appropriate 1217  
amount of life insurance or annuity coverage; 1218

(3) Complete a worksheet or other record to calculate the 1219  
estimated cost of a funeral. 1220

(C) Activities conducted pursuant to division (B) of this 1221



section by an insurance agent licensed pursuant to Chapter 3905. 1222  
of the Revised Code do not constitute funeral directing, funeral 1223  
arranging, the business of directing and supervising funerals for 1224  
profit, or the sale of a preneed funeral contract. 1225

(D) No seller shall fail to comply with the requirements and 1226  
duties specified in this section and sections 4717.32 to 4717.38 1227  
of the Revised Code. 1228

(E) No trustee of a preneed funeral contract trust shall fail 1229  
to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of 1230  
the Revised Code. 1231

(F) No insurance agent or insurance company that sells or 1232  
offers life insurance policies or annuities used to fund a preneed 1233  
funeral contract shall fail to comply with this section and 1234  
sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised 1235  
Code. To the extent this section and sections 4717.33, 4717.34, 1236  
4717.35, and 4717.37 of the Revised Code apply to insurance 1237  
companies or insurance agents, those sections constitute laws of 1238  
this state relating to insurance for purposes of sections 3901.03 1239  
and 3901.04 of the Revised Code and the superintendent of 1240  
insurance shall enforce those sections with respect to insurance 1241  
companies and insurance agents. The superintendent may adopt rules 1242  
in accordance with Chapter 119. of the Revised Code for purposes 1243  
of administering and enforcing this section and sections 4717.33, 1244  
4717.34, 4717.35, and 4717.37 of the Revised Code as those 1245  
sections apply to insurance companies or insurance agents. 1246

(G) A preneed funeral contract may be funded by the purchase 1247  
or assignment of an insurance policy or annuity in accordance with 1248  
section 3905.45 of the Revised Code. A preneed funeral contract 1249  
that is funded by the purchase or assignment of an insurance 1250  
policy or annuity in accordance with section 3905.45 of the 1251  
Revised Code is not subject to section 4717.36 of the Revised 1252  
Code. 1253

Code. 1254

(H) The board of embalmers and funeral directors shall 1255  
administer and enforce the provisions of sections 4717.31 to 1256  
4717.38 of the Revised Code concerning the requirements for and 1257  
sale of preneed funeral contracts. The superintendent of insurance 1258  
shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 1259  
4717.37 of the Revised Code to the extent those sections apply to 1260  
insurance companies and insurance agents. Payments from a trust, 1261  
insurance policy, or annuity, including any fraudulent activities 1262  
in which a person engages to obtain payments from a trust, 1263  
insurance policy, or annuity, shall be regulated in accordance 1264  
with Chapter 1111. or Title XXXIX of the Revised Code, as 1265  
applicable. 1266

(I) A seller of a preneed funeral contract that is funded by 1267  
insurance or otherwise annually shall submit to the board the 1268  
reports the board requires pursuant to division (J) of this 1269  
section. 1270

(J) The board shall adopt rules specifying the procedures and 1271  
requirements for annual reporting of the sales of all preneed 1272  
funeral contracts sold by every seller who is subject to sections 1273  
4717.31 to 4717.38 of the Revised Code. 1274

**Sec. 4717.32.** (A) Any preneed funeral contract that involves 1275  
the payment of money or the purchase or assignment of an insurance 1276  
policy or annuity shall be in writing and shall include all of the 1277  
following information: 1278

(1) The name, address, and phone number of the seller and the 1279  
name and address of the purchaser of the contract, and, if the 1280  
contract beneficiary is someone other than the purchaser of the 1281  
contract, the name and address of the contract beneficiary, and if 1282  
the contract involves the payment of money but not the purchase or 1283  
assignment of an insurance policy or annuity, the social security 1284

number of the purchaser of the contract or if the contract 1285  
beneficiary is someone other than the purchaser, the social 1286  
security number of the contract beneficiary; 1287

(2) A statement of the funeral goods and funeral services 1288  
purchased, which disclosure may be made by attaching a copy of the 1289  
completed statement of funeral goods and services selected to the 1290  
preneed funeral contract; 1291

(3) A disclosure informing the purchaser whether the contract 1292  
is either a guaranteed preneed funeral contract or a nonguaranteed 1293  
preneed funeral contract, and, if the contract is guaranteed only 1294  
in part, a disclosure specifying the funeral goods or funeral 1295  
services included in the guarantee; 1296

(4) If the preneed funeral contract is a guaranteed contract, 1297  
a disclosure that the seller, in exchange for all of the proceeds 1298  
of the trust, insurance policy, or annuity, shall provide the 1299  
funeral goods and funeral services set forth in the preneed 1300  
funeral contract without regard to the actual cost of such funeral 1301  
goods and funeral services prevailing at the time of performance 1302  
and that the seller may receive any excess funds remaining after 1303  
all expenses for the funeral have been paid. 1304

(5) If the preneed funeral contract is a nonguaranteed 1305  
contract, a disclosure that the proceeds of the trust, insurance 1306  
policy, or annuity shall be applied to the retail prices in effect 1307  
at the time of the funeral for the funeral goods and funeral 1308  
services set forth in the contract, that any excess funds 1309  
remaining after all expenses for the funeral have been paid shall 1310  
be paid to the estate of the decedent or the beneficiary named in 1311  
the life insurance policy if the preneed funeral contract is 1312  
funded by a life insurance policy, and that, in the event of an 1313  
insufficiency in funds, the seller shall not be required to 1314  
perform until payment arrangements satisfactory to the seller have 1315  
been made. 1316

(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; 1317  
1318  
1319  
1320

(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; 1321  
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1325  
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(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; 1327  
1328  
1329  
1330

(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; 1331  
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1333  
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1335

(10) The following notice in boldface print and in substantially the following form: 1336  
1337

"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." 1338  
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(11) The notice described in division (A) of section 4717.34 1348  
of the Revised Code. 1349

(B) If a preneed funeral contract is funded by any means 1350  
other than an insurance policy or policies, or an annuity or 1351  
annuities, the preneed funeral contract shall include all of the 1352  
following information in addition to the information required to 1353  
be included under division (A) of this section: 1354

(1) Disclosures identifying the name and address of the 1355  
trustee of the preneed funeral contract trust established pursuant 1356  
to section 4717.36 of the Revised Code, indicating whether fees, 1357  
expenses, or taxes will be deducted from the trust, and a 1358  
statement of who will be responsible for the taxes owed on the 1359  
trust earnings; 1360

(2) A disclosure explaining the form in which the purchase 1361  
price must be paid and, if the price is to be paid in 1362  
installments, a disclosure to the purchaser regarding what 1363  
constitutes a default under the preneed funeral contract and the 1364  
consequences of the default; 1365

(3) The following notice in boldface print and in 1366  
substantially the following form: 1367

"NOTICE: You, as the purchaser of this contract, will be 1368  
notified in writing when the trustee of this contract has received 1369  
a deposit of the funds you paid the seller under this contract. If 1370  
you do not receive that notice within sixty days after the date 1371  
you paid the funds to the seller, you should contact the trustee 1372  
identified in the contract." 1373

(4) A disclosure that a purchaser of a preneed funeral 1374  
contract that is irrevocable and that stipulates a firm or fixed 1375  
or guaranteed price for the funeral services and goods to be 1376  
provided under the preneed funeral contract may be charged a 1377  
transfer fee as specified in division (F) of section 4717.36 of 1378

the Revised Code if the purchaser wishes to transfer the contract 1379  
to another seller. 1380

(C) If a preneed funeral contract is funded by the purchase 1381  
or assignment of one or more insurance policies or annuities, the 1382  
preneed funeral contract shall include all of the following 1383  
information in addition to the information required to be included 1384  
under division (A) of this section: 1385

(1) The name and address of each applicable insurance company 1386  
and any right the purchaser has regarding canceling or 1387  
transferring the applicable insurance policies or annuities; 1388

(2) A description of the terms of payment for any remaining 1389  
payments due if the funding is to be paid in installments; 1390

(3) A list of actions that constitute default under a preneed 1391  
funeral contract and the consequences of a default; 1392

(4) The following notice in boldface print and in 1393  
substantially the following form: 1394

"NOTICE: You, as the purchaser of this contract, will be 1395  
notified in writing by the insurance company identified in this 1396  
contract when the insurance policy or policies, or annuity or 1397  
annuities, that will fund this contract have been issued. If you 1398  
do not receive the notice within sixty days after the date you 1399  
paid the funds to the seller, you should contact the insurance 1400  
company identified in the contract." 1401

(D) The seller of a preneed funeral contract that is funded 1402  
by the purchase or assignment of one or more insurance policies or 1403  
annuities does not need to include in the contract the information 1404  
described in divisions (C)(2) and (3) of this section if those 1405  
disclosures are provided in the application for a life insurance 1406  
policy or annuity or in the life insurance policy or annuity. 1407

**Sec. 4717.33.** (A) If a preneed funeral contract is funded by 1408

any means other than an insurance policy or policies, or an 1409  
annuity or annuities, the trustee of the trust created pursuant to 1410  
section 4717.36 of the Revised Code shall notify the purchaser of 1411  
the preneed funeral contract in writing, within fifteen days after 1412  
the trustee receives any payment to be deposited into the trust, 1413  
that the trustee has received payment. The notice shall include 1414  
all of the following information: 1415

(1) The amount the trustee received; 1416

(2) The name and address of the institution described in 1417  
division (B) of section 4717.36 of the Revised Code where the 1418  
trust is being held; 1419

(3) The name of the beneficiary of that trust. 1420

(B) If a preneed funeral contract is funded by the purchase 1421  
or assignment of one or more insurance policies or annuities, the 1422  
insurance company shall notify the purchaser of the preneed 1423  
funeral contract in writing within sixty days after the insurance 1424  
company receives an initial premium payment applicable to that 1425  
preneed funeral contract. The notice shall include all of the 1426  
following information that is pertinent to that preneed funeral 1427  
contract: 1428

(1) The amount the insurance company received; 1429

(2) The name and address of the insurance company; 1430

(3) The name of the insured; 1431

(4) The amount of the death benefit; 1432

(5) The policy or contract number of the insurance policy, 1433  
annuity, or contract. 1434

(C) For purposes of division (B) of this section, delivery of 1435  
an insurance policy, certificate, annuity, or contract to the 1436  
purchaser shall satisfy the notice requirement specified in that 1437

division. 1438

Sec. 4717.34. (A) Any purchaser, on initially entering into a 1439  
preneed funeral contract may, within seven days after entering 1440  
into that contract, rescind the contract and request and receive 1441  
from the seller of the contract one hundred per cent of all 1442  
payments made under the contract. Each preneed funeral contract 1443  
shall contain the following notice in boldface print and in 1444  
substantially the following form: 1445

"NOTICE: Under Ohio law, you, as the purchaser of this 1446  
contract, may rescind it and receive a refund of all payments you 1447  
made under the contract. To rescind the contract, you must notify 1448  
the seller within seven days of signing the contract." 1449

(B) No preneed funeral contract shall contain a provision 1450  
that restricts the purchaser from making the contract irrevocable. 1451  
On the purchase by an individual of an irrevocable preneed funeral 1452  
contract, the funeral director who sold the contract assumes the 1453  
legal obligation to provide for the funeral of the individual 1454  
pursuant to the terms of the contract. No money deposited in a 1455  
trust fund for an irrevocable preneed funeral contract shall be 1456  
withdrawn to purchase an insurance policy or annuity, except that 1457  
a trustee may use money in the trust fund to purchase a life 1458  
insurance policy or annuity as an investment for the trust fund. 1459

Sec. 4717.35. If a preneed funeral contract contains a 1460  
provision stating that the preneed funeral contract will be funded 1461  
by the purchase of an insurance policy, the insurance agent who 1462  
sold the policy that will fund that preneed funeral contract shall 1463  
remit the application for insurance and the premium paid to the 1464  
insurance company designated in the preneed funeral contract 1465  
within the time period specified in division (B)(15) of section 1466  
3905.14 of the Revised Code, unless the purchaser rescinds the 1467



preneed funeral contract in accordance with division (A) of 1468  
section 4717.34 of the Revised Code. 1469

If the purchaser of a preneed funeral contract that is 1470  
revocable and that is funded by an insurance policy or annuity 1471  
elects to cancel the preneed funeral contract, the purchaser shall 1472  
provide a written notice to the seller and the insurance company 1473  
designated in the contract stating that the purchaser intends to 1474  
cancel that contract. Fifteen days after the purchaser provides 1475  
the notice to the seller of the contract and the insurance 1476  
company, the purchaser may cancel the preneed funeral contract and 1477  
change the beneficiary of the insurance policy or annuity or 1478  
reassign the benefits under the policy or annuity. 1479

The purchaser of a preneed funeral contract that is 1480  
irrevocable and that is funded by an insurance policy or annuity 1481  
may transfer the preneed funeral contract to a successor seller by 1482  
notifying the original seller of the designation of a successor 1483  
seller. Within fifteen days after receiving the written notice of 1484  
the designation of the successor seller from the purchaser, the 1485  
original seller shall assign the seller's rights to the proceeds 1486  
of the policy to the successor seller. The insurance company shall 1487  
confirm the change of assignment by providing written notice to 1488  
the policyholder. 1489

**Sec. 4717.36.** (A) This section applies only to preneed 1490  
funeral contracts that are funded by any means other than an 1491  
insurance policy or policies, or an annuity or annuities. 1492

One hundred per cent of all payments for funeral goods and 1493  
funeral services made under a preneed funeral contract shall 1494  
remain intact and held in trust in accordance with this section 1495  
for the benefit of the contract beneficiary. No money in a preneed 1496  
funeral contract trust shall be distributed from the trust except 1497

as provided in this section. Within thirty days after the provider 1498  
of the funeral goods or funeral services receives any payment 1499  
under a preneed funeral contract, the seller of the preneed 1500  
funeral contract shall deliver the moneys received for that 1501  
preneed funeral contract that have not been returned to the 1502  
purchaser as provided in division (A) of section 4717.34 of the 1503  
Revised Code to the trustee designated in the preneed funeral 1504  
contract. 1505

(B) The seller shall establish a preneed funeral contract 1506  
trust at one of the following types of institutions and shall 1507  
designate that institution as the trustee of the preneed funeral 1508  
contract trust: 1509

(1) A trust company licensed under Chapter 1111. of the 1510  
Revised Code; 1511

(2) A national bank, federal savings bank, or federal savings 1512  
association that pledges securities in accordance with section 1513  
1111.04 of the Revised Code; 1514

(3) A credit union authorized to conduct business in this 1515  
state pursuant to Chapter 1733. of the Revised Code. 1516

(C) Moneys deposited in a preneed funeral contract trust fund 1517  
shall be held and invested in the manner in which trust funds are 1518  
permitted to be held and invested pursuant to Chapter 1111. of the 1519  
Revised Code. 1520

(D) The seller shall establish a separate preneed funeral 1521  
contract trust for the moneys paid under each preneed funeral 1522  
contract, unless the purchaser or purchasers of a preneed funeral 1523  
contract or contracts authorize the seller to place the moneys 1524  
paid for that contract or those contracts in a combined preneed 1525  
funeral contract trust. The trustee of a combined preneed funeral 1526  
contract trust shall keep exact records of the corpus, income, 1527  
expenses, and disbursements with regard to each purchaser and 1528

contract beneficiary for whom moneys are held in the trust. The 1529  
terms of a preneed funeral contract trust are governed by this 1530  
section and the payments from that trust are governed by Chapter 1531  
1111. of the Revised Code, except as otherwise provided in this 1532  
section. 1533

A trustee of a preneed funeral contract trust may pay taxes 1534  
and expenses for a preneed funeral contract trust and may charge a 1535  
fee for managing a preneed funeral contract trust. The fee shall 1536  
not exceed the amount regularly or usually charged for similar 1537  
services rendered by the institutions described in division (B) of 1538  
this section when serving as a trustee. The taxes, expenses, and 1539  
fees shall be paid only from the accumulated income on that trust. 1540

(E) If the purchaser of a preneed funeral contract that is 1541  
revocable elects to cancel the contract, the purchaser shall 1542  
provide a written notice to the seller of the contract and the 1543  
trustee of the preneed funeral contract trust stating that the 1544  
purchaser intends to cancel the contract. Fifteen days after the 1545  
purchaser provides that notice to the seller and trustee, the 1546  
purchaser may cancel the contract. Upon canceling a preneed 1547  
funeral contract pursuant to this division, one of the following 1548  
shall occur, as applicable: 1549

(1) If the preneed funeral contract does not stipulate a firm 1550  
or fixed or guaranteed price for funeral goods and funeral 1551  
services to be provided under the preneed funeral contract, the 1552  
trustee shall give to the purchaser all of the assets of the trust 1553  
that exist at the time of cancellation, less any fees charged, 1554  
distributions paid, and expenses incurred by the trustee pursuant 1555  
to division (D) of this section. 1556

(2) If the preneed funeral contract does stipulate a firm or 1557  
fixed or guaranteed price for funeral goods and funeral services 1558  
to be provided under the contract, the purchaser may request and 1559  
receive from the trustee all of the assets of the trust at the 1560

time of cancellation, less a cancellation fee that the original 1561  
seller may collect from the trustee that is equal to or less than 1562  
ten per cent of the value of the assets of the trust on the date 1563  
the trust is cancelled and less any fees charged, distributions 1564  
paid, and expenses incurred by the trustee pursuant to division 1565  
(D) of this section. 1566

If more than one purchaser enters into the contract, all of 1567  
those purchasers must request cancellation of the contract for it 1568  
to be effective under this division, and the trustee shall refund 1569  
to each purchaser only those funds that purchaser has paid under 1570  
the contract and any income earned on those funds in an amount 1571  
that is in direct proportion to the amount of funds that purchaser 1572  
paid relative to the total amount of payments deposited in that 1573  
trust, less any fees charged, distributions paid, and expenses 1574  
incurred by the trustee pursuant to division (D) of this section, 1575  
the amount of which are in direct proportion to the amount of 1576  
funds that purchaser paid relative to the total amount of payments 1577  
deposited in that trust. 1578

(F) The purchaser of a preneed funeral contract that is 1579  
irrevocable may transfer the preneed funeral contract to a 1580  
successor seller. A purchaser who elects to make such a transfer 1581  
shall provide a written notice of the designation of a successor 1582  
seller to the trustee and the original seller. Within fifteen days 1583  
after receiving the written notice of the new designation from the 1584  
purchaser, the trustee shall list the successor seller as the 1585  
seller of the preneed funeral contract and the original seller 1586  
shall relinquish and transfer all rights under the preneed funeral 1587  
contract to the successor seller. The trustee shall confirm the 1588  
transfer by providing written notice of the transfer to the 1589  
original seller, the successor seller, and the purchaser. If the 1590  
preneed funeral contract stipulates a firm or fixed or guaranteed 1591  
price for the funeral goods and funeral services to be provided 1592

under the preneed funeral contract, the original seller may 1593  
collect from the trustee a transfer fee from the trust that equals 1594  
up to ten per cent of the value of the assets of the trust on the 1595  
date the trust is transferred. If the preneed funeral contract 1596  
does not stipulate a firm or fixed or guaranteed price for funeral 1597  
goods and funeral services to be provided under the preneed 1598  
funeral contract, no transfer fee shall be collected by the 1599  
original seller. 1600

(G) If a seller of a preneed funeral contract elects to 1601  
transfer a preneed funeral contract trust from an institution 1602  
listed in divisions (B)(1) to (3) of this section to a different 1603  
institution, the trustee of the original trust shall notify the 1604  
purchaser of the preneed funeral contract of that transfer in 1605  
writing within thirty days after the transfer occurred and shall 1606  
provide the purchaser with the name of and the contact information 1607  
for the institution where the new trust is maintained. Upon 1608  
receipt of the trust, the trustee of the transferred trust shall 1609  
notify the purchaser of the receipt of the trusts in accordance 1610  
with division (A) of section 4717.33 of the Revised Code. 1611

(H) If a seller receives a notice that the contract 1612  
beneficiary has died and that funeral goods and funeral services 1613  
have been provided by a provider other than the seller, except as 1614  
otherwise specified in this section, the seller shall direct the 1615  
trustee, within thirty days after receiving that notice, to pay to 1616  
the contract beneficiary all funds held by the trustee, less any 1617  
fees charged, distributions paid, and expenses incurred by the 1618  
trustee pursuant to division (D) of this section. In the event the 1619  
preneed funeral contract stipulates a firm or fixed or guaranteed 1620  
price for funeral goods and funeral services that were to be 1621  
provided under the preneed funeral contract, the seller may 1622  
collect from the trustee a cancellation fee not exceeding ten per 1623  
cent of the value of the assets of the trust on the date the trust 1624

is transferred. If the preneed funeral trust does not stipulate a 1625  
firm or fixed or guaranteed price for funeral goods and funeral 1626  
services to be provided under the preneed funeral contract, no 1627  
cancellation fees shall be collected by the original seller. 1628

(I) A certified copy of the certificate of death or other 1629  
evidence of death satisfactory to the trustee shall be furnished 1630  
to the trustee as evidence of death, and the trustee shall 1631  
promptly pay the accumulated payments and income, if any, 1632  
according to the preneed funeral contract. Such payment of the 1633  
accumulated payments and income pursuant to this section and, when 1634  
applicable, the preneed funeral contract, relieves the trustee of 1635  
any further liability on the accumulated payments and income. 1636

**Sec. 4717.37.** For purposes of sections 4717.31 to 4717.38 of 1637  
the Revised Code, a seller is considered to have delivered funeral 1638  
goods pursuant to a preneed funeral contract when the seller makes 1639  
actual delivery of the goods to the contract beneficiary. 1640

**Sec. 4717.38.** Sections 4717.31 to 4717.38 of the Revised Code 1641  
shall be construed as a limitation on the manner in which a person 1642  
is permitted to accept funds in prepayment for funeral services to 1643  
be performed in the future, or funeral goods to be used in 1644  
connection with the funeral or final disposition of human remains, 1645  
to the end that at all times members of the public may have an 1646  
opportunity to arrange and pay for a funeral for themselves and 1647  
their families in advance of need while at the same time providing 1648  
all possible safeguards to ensure that prepaid funds cannot be 1649  
dissipated, whether intentionally or not, but remain available for 1650  
payment for funeral goods and funeral services in connection with 1651  
the funeral or final disposition of dead human bodies. 1652

Sections 4717.31 to 4717.38 of the Revised Code do not apply 1653  
1654

to a seller if that seller is an established and legally 1655  
cognizable church or denomination that is exempt from federal 1656  
income taxation under section 501(c)(3) of the "Internal Revenue 1657  
Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and the 1658  
preneed funeral contract pertains to a cemetery owned and operated 1659  
entirely and exclusively by the church or denomination, on the 1660  
condition that the church or denomination adopts, on a voluntary 1661  
basis, rules and other measures to safeguard and secure all funds 1662  
received under any preneed funeral contract. 1663

Any money, insurance policies, annuities, or other items 1664  
delivered in payment of a preneed funeral contract, and any funds 1665  
held in trust pursuant to section 4717.36 of the Revised Code, are 1666  
exempt from levy, attachment, or sale to satisfy a judgment or 1667  
order. 1668

**Sec. 4717.99.** Whoever violates any provision of sections 1669  
4717.01 to 4717.15; division (A) or (B) of section 4717.23; 1670  
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 1671  
or divisions (H) to (K) of section 4717.26; division (D)(1) of 1672  
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 1673  
Revised Code shall be fined not less than one hundred nor more 1674  
than five thousand dollars, or imprisoned for not more than one 1675  
year, or both, for the first offense. For each subsequent offense 1676  
such a person shall be fined not less than one hundred nor more 1677  
than ten thousand dollars, or imprisoned for not more than one 1678  
year, or both. 1679

Whoever purposely violates division (D) or (E) of section 1680  
4717.31 of the Revised Code is guilty of a misdemeanor of the 1681  
third degree. If the purpose of a violation of that division is to 1682  
commit or facilitate the commission of a felony, whoever violates 1683  
that division is guilty of a felony of the fourth degree. 1684

1685

**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		1705
EXEMPTIONS (INDIVIDUALS)		
OR		1706
MODIFIED OHIO		1707
TAXABLE INCOME (TRUSTS)		1708
OR		1709
OHIO TAXABLE INCOME (ESTATES)	TAX	1710
\$5,000 or less	.743%	1711
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	1712
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	1713
More than \$15,000 but not more	\$260.05 plus 3.715% of the	1714



than \$20,000	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	1715
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	1716
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	1717
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	1718
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	1719
(2) For taxable years beginning in 2005:		1720
OHIO ADJUSTED GROSS INCOME LESS		1721
EXEMPTIONS (INDIVIDUALS)		
OR		1722
MODIFIED OHIO		1723
TAXABLE INCOME (TRUSTS)		1724
OR		1725
OHIO TAXABLE INCOME (ESTATES)	TAX	1726
\$5,000 or less	.712%	1727
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	1728
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	1729
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	1730
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	1731
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	1732
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	1733
More than \$100,000 but not more	\$4,412.90 plus 6.61% of the	1734

than \$200,000	amount in excess of \$100,000	
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	1735
(3) For taxable years beginning in 2006:		1736
OHIO ADJUSTED GROSS INCOME LESS		1737
EXEMPTIONS (INDIVIDUALS)		
OR		1738
MODIFIED OHIO		1739
TAXABLE INCOME (TRUSTS)		1740
OR		1741
OHIO TAXABLE INCOME (ESTATES)	TAX	1742
\$5,000 or less	.681%	1743
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	1744
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	1745
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	1746
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	1747
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	1748
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	1749
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	1750
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	1751
(4) For taxable years beginning in 2007:		1752
OHIO ADJUSTED GROSS INCOME LESS		1753
EXEMPTIONS (INDIVIDUALS)		
OR		1754

MODIFIED OHIO		1755
TAXABLE INCOME (TRUSTS)		1756
OR		1757
OHIO TAXABLE INCOME (ESTATES)	TAX	1758
\$5,000 or less	.649%	1759
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1760
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	1761
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1762
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1763
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1764
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1765
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1766
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1767
(5) For taxable years beginning in 2008:		1768
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1769
OR		1770
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		1771
OR		1772
OHIO TAXABLE INCOME (ESTATES)	TAX	1773
\$5,000 or less	.618%	1774
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1775
More than \$10,000 but not more	\$92.70 plus 2.473% of the amount	1776
		1777

than \$15,000	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	1778
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1779
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1780
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1781
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1782
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1783
(6) For taxable years beginning in 2009 or thereafter:		1784
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1785
OR		1786
MODIFIED OHIO		1787
TAXABLE INCOME (TRUSTS)		1788
OR		1789
OHIO TAXABLE INCOME (ESTATES)	TAX	1790
\$5,000 or less	.587%	1791
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1792
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1793
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1794
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1795
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1796
More than \$80,000 but not more	\$2,700.00 plus 4.695% of the	1797

than \$100,000	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	1798
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1799

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 1827  
715.81 of the Revised Code from levying a tax on income. 1828

(D) This division applies only to taxable years of a trust 1829  
beginning in 2002 or thereafter. 1830

(1) The tax imposed by this section on a trust shall be 1831  
computed by multiplying the Ohio modified taxable income of the 1832  
trust by the rates prescribed by division (A) of this section. 1833

(2) A nonresident trust may claim a credit against the tax 1834  
computed under division (D) of this section equal to the lesser of 1835  
(1) the tax paid to another state or the District of Columbia on 1836  
the nonresident trust's modified nonbusiness income, other than 1837  
the portion of the nonresident trust's nonbusiness income that is 1838  
qualifying investment income as defined in section 5747.012 of the 1839  
Revised Code, or (2) the effective tax rate, based on modified 1840  
Ohio taxable income, multiplied by the nonresident trust's 1841  
modified nonbusiness income other than the portion of the 1842  
nonresident trust's nonbusiness income that is qualifying 1843  
investment income. The credit applies before any other applicable 1844  
credits. 1845

(3) The credits enumerated in divisions (A)(1) to (13) of 1846  
section 5747.98 of the Revised Code do not apply to a trust 1847  
subject to division (D) of this section. Any credits enumerated in 1848  
other divisions of section 5747.98 of the Revised Code apply to a 1849  
trust subject to division (D) of this section. To the extent that 1850  
the trust distributes income for the taxable year for which a 1851  
credit is available to the trust, the credit shall be shared by 1852  
the trust and its beneficiaries. The tax commissioner and the 1853  
trust shall be guided by applicable regulations of the United 1854  
States treasury regarding the sharing of credits. 1855

(E) For the purposes of this section, "trust" means any trust 1856  
described in Subchapter J of Chapter 1 of the Internal Revenue 1857

Code, excluding trusts that are not irrevocable as defined in 1858  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1859  
have no modified Ohio taxable income for the taxable year, 1860  
charitable remainder trusts, qualified funeral trusts and preneed 1861  
funeral contract trusts established pursuant to ~~section 1111.19~~ 1862  
sections 4717.31 to 4717.38 of the Revised Code that are not 1863  
qualified funeral trusts, endowment and perpetual care trusts, 1864  
qualified settlement trusts and funds, designated settlement 1865  
trusts and funds, and trusts exempted from taxation under section 1866  
501(a) of the Internal Revenue Code. 1867

**Section 2.** That existing sections 1151.345, 1161.59, 1733.51, 1868  
2108.81, 2117.251, 3103.03, 3901.04, 3901.21, 3905.451, 3923.80, 1869  
4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 and 1870  
sections 1111.19 and 1111.99 of the Revised Code are hereby 1871  
repealed. 1872

**Section 3.** Sections 1 and 2 of this act, except for section 1873  
3923.80 of the Revised Code, shall take effect ninety days after 1874  
the effective date of this act. Section 3923.80 of the Revised 1875  
Code, as amended by this act, shall take effect at the earliest 1876  
time permitted by law. 1877