

**As Reported by the Senate Insurance, Commerce and Labor  
Committee**

**127th General Assembly  
Regular Session  
2007-2008**

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

**Senator Schaffer**

**Cosponsors: Senators Carey, Cates, Schuler**

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**A B I L L**

To amend sections 1151.345, 1161.59, 1721.211, 1  
1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 2  
3905.451, 4717.01, 4717.03, 4717.13, 4717.14, 3  
4717.99, and 5747.02, to enact sections 4717.31 to 4  
4717.38, and to repeal sections 1111.19 and 5  
1111.99 of the Revised Code to revise the Preneed 6  
Funeral Contract Law. 7

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

**Section 1.** That sections 1151.345, 1161.59, 1721.211, 8  
1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3905.451, 4717.01, 9  
4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 be amended and 10  
sections 4717.31, 4717.32, 4717.33, 4717.34, 4717.35, 4717.36, 11  
4717.37, and 4717.38 of the Revised Code be enacted to read as 12  
follows: 13

**Sec. 1151.345.** A savings and loan association, in accordance 14  
with sections ~~1111.19 and~~ 1721.211 and 4717.31 to 4717.38 of the 15  
Revised Code, may receive and hold on deposit moneys under a 16  
preneed funeral contract or a preneed cemetery merchandise and 17  
services contract. 18

**Sec. 1161.59.** In accordance with sections ~~1111.19~~ and 1721.211 and 4717.31 to 4717.38 of the Revised Code, a savings bank may receive and hold on deposit moneys under a preneed funeral contract or a preneed cemetery merchandise and services contract. 19  
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**Sec. 1721.211.** (A) As used in this section, "preneed cemetery merchandise and services contract" means a written agreement, contract, or series of contracts to sell or otherwise provide an outer burial container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services to be used or provided in connection with the final disposition of a dead human body, where payment for the container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services is made either outright or on an installment basis, prior to the death of the person so purchasing or for whom so purchased. "Preneed cemetery merchandise and services contract" does not include any preneed funeral contract or any agreement, contract, or series of contracts pertaining to the sale of any burial lot, burial or interment right, entombment right, or columbarium right with respect to which an endowment care trust is established or is exempt from establishment pursuant to section 1721.21 of the Revised Code. 24  
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(B) Subject to the limitations and restrictions contained in Chapters 1101. to 1127. of the Revised Code, a trust company licensed under Chapter 1111. of the Revised Code or a national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code or the individuals described in division (C)(2) of this section have the power as trustee to receive and to hold and invest in accordance with sections 2109.37 and 2109.371 of the 42  
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Revised Code moneys under a preneed cemetery merchandise and 50  
services contract. 51

(C)(1) ~~The greater of~~ Either one hundred ten per cent of the 52  
seller's actual cost or thirty per cent of the seller's retail 53  
price of the merchandise and seventy per cent of the seller's 54  
retail price of the services to be provided under a preneed 55  
cemetery merchandise and services contract shall remain intact as 56  
a fund until the death of the person for whose benefit the 57  
contract is made or the merchandise is delivered as set forth in 58  
division (K) of this section. However, any moneys held pursuant to 59  
this section shall be released upon demand of the person for whose 60  
benefit the contract was made or upon the demand of the seller for 61  
its share of the moneys held and earned interest if the contract 62  
has been canceled as set forth in division (G) of this section. 63

(2) The trustee of the fund described in division (C)(1) of 64  
this section shall be a trust company licensed under Chapter 1111. 65  
of the Revised Code or a national bank, federal savings bank, or 66  
federal savings association that pledges securities in accordance 67  
with section 1111.04 of the Revised Code or at least three 68  
individuals who have been residents of the county in which the 69  
seller is located for at least one year, each of whom shall be 70  
bonded by a corporate surety in an amount that is at least equal 71  
to the amount deposited in the fund of which those persons serve 72  
as trustee. Amounts in the fund shall be held and invested in the 73  
manner in which trust funds are permitted to be held and invested 74  
pursuant to sections 2109.37 and 2109.371 of the Revised Code. 75

(3) Every preneed cemetery and merchandise contract entered 77  
into on or after ~~the effective date of this amendment~~ October 12, 78  
2006, shall include a provision in substantially the following 79  
form: 80

NOTICE: Under Ohio law, the person holding the right of 81

disposition of the remains of the beneficiary of this contract 82  
pursuant to section 2108.70 or 2108.81 of the Revised Code will 83  
have the right to purchase cemetery merchandise and services 84  
inconsistent with the merchandise and services set forth in this 85  
contract. However, the beneficiary is encouraged to state ~~his or~~ 86  
~~her~~ the beneficiary's preferences as to the manner of final 87  
disposition in a declaration of the right of disposition pursuant 88  
to section 2108.72 of the Revised Code, including that the 89  
arrangements set forth in this contract shall be followed. 90

(D) Within thirty days after the last business day of the 91  
month in which the seller of cemetery merchandise or services 92  
receives final contractual payment under a preneed cemetery 93  
merchandise and services contract, the seller shall deliver ~~the~~ 94  
~~greater of~~ either one hundred ten per cent of the seller's actual 95  
cost or thirty per cent of the seller's retail price of the 96  
merchandise and seventy per cent of the seller's current retail 97  
price of the services as of the date of the contract to a trustee 98  
or to trustees as described in division (C)(2) of this section, 99  
and the moneys and accruals or income on the moneys shall be held 100  
in a fund and designated for the person for whose benefit the fund 101  
was established as a preneed cemetery merchandise and services 102  
contract fund. 103

(E) The moneys received from more than one preneed cemetery 104  
merchandise and services contract may, at the option of the 105  
persons for whose benefit the contracts are made, be placed in a 106  
common or pooled trust fund in this state under a single trust 107  
instrument. If three individuals are designated as the trustees as 108  
provided in division (C)(2) of this section, they shall be bonded 109  
by a corporate surety or fidelity bond in an aggregate amount of 110  
not less than one hundred per cent of the funds held by them as 111  
trustees. The trustees or their agent shall, on a continuous 112  
basis, keep exact records as to the amount of funds under a single 113

trust instrument being held for the individual beneficiaries 114  
showing the amount paid, the amount deposited and invested, and 115  
accruals and income. 116

(F) The seller of merchandise or services under a preneed 117  
cemetery merchandise and services contract shall annually submit 118  
to the division of real estate of the department of commerce an 119  
affidavit in a form prescribed by the division, sworn under oath, 120  
specifying each of the following: 121

(1) That, within the time specified in division (D) of this 122  
section, the amounts required by that division were deposited in 123  
an appropriate fund; 124

(2) That the fund has not been used to collateralize or 125  
guarantee loans and has not otherwise been subjected to any 126  
consensual lien; 127

(3) That the fund is invested in compliance with the 128  
investing standards set forth in sections 2109.37 and 2109.371 of 129  
the Revised Code; 130

(4) That no moneys have been removed from the fund, except as 131  
provided for in this section. 132

(G) This division is subject to division (I) of this section. 133

Any person upon initially entering into a preneed cemetery 134  
merchandise and services contract may, within seven days, cancel 135  
the contract and request and receive from the seller one hundred 136  
per cent of all payments made under the contract. After the 137  
expiration of the above period, any person who has entered into a 138  
preneed cemetery merchandise and services contract may, on not 139  
less than fifteen days' notice, cancel the contract and request 140  
and receive from the seller sixty per cent of the payments made 141  
under the contract which have been paid up to the time of 142  
cancellation; except that, if a preneed cemetery merchandise and 143  
services contract stipulates a firm or fixed or guaranteed price 144

for the merchandise or services for future use at a time 145  
determined by the death of the person on behalf of whom payments 146  
are made, the person who has entered into the contract may, if the 147  
merchandise has not been delivered or the services have not been 148  
performed as set forth in division (K) or (L) of this section, on 149  
not less than fifteen days' notice, cancel the contract and 150  
receive from the seller sixty per cent of the principal paid 151  
pursuant to the contract and not less than eighty per cent of any 152  
interest paid, up to the time of cancellation, and not less than 153  
eighty per cent of any accrual or income earned while the moneys 154  
have been held pursuant to divisions (C) and (D) of this section, 155  
up to the time of cancellation. Upon cancellation, after the 156  
moneys have been distributed to the beneficiary pursuant to this 157  
division, all remaining moneys being held pursuant to divisions 158  
(C) and (D) of this section shall be paid to the seller. If more 159  
than one person enters into the contract, all of those persons 160  
must request cancellation for it to be effective under this 161  
division. In such a case, the seller shall refund to each person 162  
only those moneys that each person has paid under the contract. 163

(H) Upon receipt of a certified copy of the certificate of 164  
death or evidence of delivery of the merchandise or performance of 165  
the services pursuant to division (K) or (L) of this section, the 166  
trustee described in division (C)(2) of this section or its agent, 167  
shall forthwith pay the fund and accumulated interest, if any, to 168  
the person entitled to them under the preneed cemetery merchandise 169  
and services contract. The payment of the fund and accumulated 170  
interest pursuant to this section, either to a seller or person 171  
making the payments, shall relieve the trustee of any further 172  
liability on the fund or accumulated interest. 173

(I) Notwithstanding any other provision of this section, any 174  
preneed cemetery merchandise and services contract may specify 175  
that it is irrevocable. All irrevocable preneed cemetery 176

merchandise and services contracts shall include a clear and 177  
conspicuous disclosure of irrevocability in the contract and any 178  
person entering into an irrevocable preneed cemetery merchandise 179  
and services contract shall sign a separate acknowledgment of the 180  
person's waiver of the right to revoke. If a contract satisfies 181  
the requirements of this division, division (G) of this section 182  
does not apply to that contract. 183

(J) Any preneed cemetery merchandise and services contract 184  
that involves the payment of money shall be in writing and in 185  
compliance with the laws and rules of this state. 186

(K) For purposes of this section, the seller is considered to 187  
have delivered merchandise pursuant to a preneed cemetery 188  
merchandise and services contract when either of the following 189  
occur: 190

(1) The seller makes actual delivery of the merchandise to 191  
the beneficiary, or the seller pays for the merchandise and 192  
identifies it as being stored for the benefit of the beneficiary 193  
at a manufacturer's warehouse. 194

(2) The seller receives delivery of the merchandise on behalf 195  
of the beneficiary, and all of the following occur: 196

(a) The merchandise is permanently affixed to or stored upon 197  
the real property of a cemetery located in this state. 198

(b) The seller notifies the beneficiary of receipt of the 199  
merchandise and identifies the specific location of the 200  
merchandise. 201

(c) The seller at the time of the beneficiary's final payment 202  
provides the beneficiary with evidence of ownership in the 203  
beneficiary's name showing the merchandise to be free and clear of 204  
any liens or other encumbrances. 205

(L) For purposes of this section, a seller is considered to 206

have performed services pursuant to a preneed cemetery merchandise 207  
and services contract when the beneficiary's next of kin signs a 208  
written statement that the services have been performed or, if no 209  
next of kin of the beneficiary can be located through reasonable 210  
diligence, when the owner or other person responsible for the 211  
operation of the cemetery signs a statement of that nature. 212

(M) Notwithstanding any other provision of this chapter, any 213  
trust may be charged a trustee's fee, which is to be deducted from 214  
the earned income or accruals on that trust. The fee shall not 215  
exceed the amount that is regularly or usually charged for similar 216  
services rendered by the trustee described in division (C)(2) of 217  
this section when serving as a trustee. 218

(N) The general assembly intends that this section be 219  
construed as a limitation upon the manner in which a person is 220  
permitted to accept moneys in prepayment for merchandise and 221  
services to be delivered or provided in the future, or merchandise 222  
and services to be used or provided in connection with the final 223  
disposition of human remains, to the end that at all times members 224  
of the public may have an opportunity to arrange and pay for 225  
merchandise and services for themselves and their families in 226  
advance of need while at the same time providing all possible 227  
safeguards whereunder the prepaid moneys cannot be dissipated, 228  
whether intentionally or not, so as to be available for the 229  
payment for merchandise and services and the providing of 230  
merchandise and services used or provided in connection with the 231  
final disposition of dead human bodies. 232

(O) This section does not apply to the seller or provider of 233  
merchandise or services under a preneed cemetery merchandise and 234  
services contract if the contract pertains to a cemetery that is 235  
owned and operated entirely and exclusively by an established and 236  
legally cognizable church or denomination that is exempt from 237  
federal income taxation under section 501(c)(3) of the "Internal 238



Revenue Code of 1954," 26 U.S.C.A. 501, an established fraternal 239  
organization, or a municipal corporation or other political 240  
subdivision of the state, to a cemetery that is a national 241  
cemetery, or to a cemetery that is a family cemetery as defined in 242  
section 4767.02 of the Revised Code; provided that, on a voluntary 243  
basis, rules and other measures are adopted to safeguard and 244  
secure all moneys received under a preneed cemetery merchandise 245  
and services contract. 246

(P) This section does not prohibit persons other than 247  
cemetery corporations or associations from selling outer burial 248  
containers, monuments, markers, urns, or other types of 249  
merchandise customarily sold by cemeteries pursuant to a preneed 250  
cemetery merchandise and services contract; however all sellers of 251  
merchandise pursuant to a preneed cemetery merchandise and 252  
services contract shall comply with this section unless the seller 253  
is specifically exempt from this section. 254

(Q) Any contract for preneed services or merchandise entered 255  
into with a cemetery not registered under section 4767.03 of the 256  
Revised Code is voidable. 257

**Sec. 1733.51.** A credit union may, subject to sections ~~1111.19~~ 258  
~~and~~ 1721.211 and 4717.31 to 4717.38 of the Revised Code, receive 259  
and hold on deposit moneys under a preneed funeral contract or 260  
preneed cemetery merchandise and services contract. 261

**Sec. 2108.81.** (A) If either of the following is true, 262  
division (B) of this section shall apply: 263

(1) An adult has not executed a written declaration pursuant 264  
to sections 2108.70 to 2108.73 of the Revised Code that remains in 265  
force at the time of the adult's death. 266

(2) Each person to whom the right of disposition has been 267  
assigned or reassigned pursuant to a written declaration is 268

disqualified from exercising the right as described in section	269
2108.75 of the Revised Code.	270
(B) Subject to division (A) of this section and sections	271
2108.75 and 2108.79 of the Revised Code, the right of disposition	272
is assigned to the following persons, if mentally competent adults	273
who can be located with reasonable effort, in the order of	274
priority stated:	275
(1) The deceased person's surviving spouse;	276
(2) The sole surviving child of the deceased person or, if	277
there is more than one surviving child, all of the surviving	278
children, collectively; <i>i</i>	279
(3) The deceased person's surviving parent or parents;	280
(4) The deceased person's surviving sibling, whether of the	281
whole or of the half blood or, if there is more than one sibling	282
of the whole or of the half blood, all of the surviving siblings,	283
collectively;	284
(5) The deceased person's surviving grandparent or	285
grandparents;	286
(6) <u>The deceased person's surviving grandchild, or if there</u>	287
<u>is more than one surviving grandchild, all of the surviving</u>	288
<u>grandchildren collectively;</u>	289
<u>(7)</u> The lineal descendants of the deceased person's	290
grandparents, as described in division (I) of section 2105.06 of	291
the Revised Code;	292
<del>(7)</del> <u>(8)</u> The person who was the deceased person's guardian at	293
the time of the deceased person's death, if a guardian had been	294
appointed;	295
<del>(8)</del> <u>(9)</u> Any other person willing to assume the right of	296
disposition, including the personal representative of the deceased	297
person's estate or the licensed funeral director with custody of	298

the deceased person's body, after attesting in writing that a good 299  
faith effort has been made to locate the persons in divisions 300  
(B)(1) to (7) of this section. 301

(10) If the deceased person was an indigent person or other 302  
person the final disposition of whose body is the financial and 303  
statutory responsibility of the state or a political subdivision 304  
of this state, the public officer or employee responsible for 305  
arranging the final disposition of the remains of the deceased 306  
person. 307

**Sec. 2117.251.** A claim under the bill of a funeral director 308  
pursuant to section 2117.25 of the Revised Code arises subsequent 309  
to the death of the decedent and is not in satisfaction of a 310  
personal obligation of the individual during the individual's 311  
lifetime. If a decedent during the decedent's lifetime has 312  
purchased an irrevocable preneed funeral contract pursuant to 313  
section ~~1111.19~~ 4717.34 of the Revised Code, then those provisions 314  
of section 2117.25 of the Revised Code that relate to the bill of 315  
a funeral director, including divisions (A) and (B) of that 316  
section, do not apply to the estate of the decedent and the estate 317  
is not liable for the funeral expenses of the decedent. 318

**Sec. 3103.03.** (A) Each married person must support the 319  
person's self and spouse out of the person's property or by the 320  
person's labor. If a married person is unable to do so, the spouse 321  
of the married person must assist in the support so far as the 322  
spouse is able. The biological or adoptive parent of a minor child 323  
must support the parent's minor children out of the parent's 324  
property or by the parent's labor. 325

(B) Notwithstanding section 3109.01 of the Revised Code and 326  
to the extent provided in section ~~3319.86~~ 3119.86 of the Revised 327  
Code, the parental duty of support to children shall continue 328

beyond the age of majority as long as the child continuously 329  
attends on a full-time basis any recognized and accredited high 330  
school. That duty of support shall continue during seasonal 331  
vacation periods. 332

(C) If a married person neglects to support the person's 333  
spouse in accordance with this section, any other person, in good 334  
faith, may supply the spouse with necessaries for the support of 335  
the spouse and recover the reasonable value of the necessaries 336  
supplied from the married person who neglected to support the 337  
spouse unless the spouse abandons that person without cause. 338

(D) If a parent neglects to support the parent's minor child 339  
in accordance with this section and if the minor child in question 340  
is unemancipated, any other person, in good faith, may supply the 341  
minor child with necessaries for the support of the minor child 342  
and recover the reasonable value of the necessaries supplied from 343  
the parent who neglected to support the minor child. 344

(E) If a decedent during the decedent's lifetime has 345  
purchased an irrevocable preneed funeral contract pursuant to 346  
section ~~1109.75~~ 4717.34 of the Revised Code, then the duty of 347  
support owed to a spouse pursuant to this section does not include 348  
an obligation to pay for the funeral expenses of the deceased 349  
spouse. This division does not preclude a surviving spouse from 350  
assuming by contract the obligation to pay for the funeral 351  
expenses of the deceased spouse. 352

**Sec. 3901.04.** (A) As used in this section: 353

(1) "Laws of this state relating to insurance" include but 354  
are not limited to Chapter 1751. notwithstanding section 1751.08, 355  
Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and 356  
Chapter 5729. of the Revised Code. Sections 4717.31, 4717.33, 357  
4717.34, 4717.35, and 4717.37 of the Revised Code are "laws of 358  
this state relating to insurance" to the extent those sections 359

apply to insurance companies or insurance agents. 360

(2) "Person" has the meaning defined in division (A) of 361  
section 3901.19 of the Revised Code. 362

(B) Whenever it appears to the superintendent of insurance, 363  
from the superintendent's files, upon complaint or otherwise, that 364  
any person has engaged in, is engaged in, or is about to engage in 365  
any act or practice declared to be illegal or prohibited by the 366  
laws of this state relating to insurance, or defined as unfair or 367  
deceptive by such laws, or when the superintendent believes it to 368  
be in the best interest of the public and necessary for the 369  
protection of the people in this state, the superintendent or 370  
anyone designated by the superintendent under the superintendent's 371  
official seal may do any one or more of the following: 372

(1) Require any person to file with the superintendent, on a 373  
form that is appropriate for review by the superintendent, an 374  
original or additional statement or report in writing, under oath 375  
or otherwise, as to any facts or circumstances concerning the 376  
person's conduct of the business of insurance within this state 377  
and as to any other information that the superintendent considers 378  
to be material or relevant to such business; 379

(2) Administer oaths, summon and compel by order or subpoena 380  
the attendance of witnesses to testify in relation to any matter 381  
which, by the laws of this state relating to insurance, is the 382  
subject of inquiry and investigation, and require the production 383  
of any book, paper, or document pertaining to such matter. A 384  
subpoena, notice, or order under this section may be served by 385  
certified mail, return receipt requested. If the subpoena, notice, 386  
or order is returned because of inability to deliver, or if no 387  
return is received within thirty days of the date of mailing, the 388  
subpoena, notice, or order may be served by ordinary mail. If no 389  
return of ordinary mail is received within thirty days after the 390  
date of mailing, service shall be deemed to have been made. If the 391

subpoena, notice, or order is returned because of inability to 392  
deliver, the superintendent may designate a person or persons to 393  
effect either personal or residence service upon the witness. 394  
Service of any subpoena, notice, or order and return may also be 395  
made in any manner authorized under the Rules of Civil Procedure. 396  
Such service shall be made by an employee of the department 397  
designated by the superintendent, a sheriff, a deputy sheriff, an 398  
attorney, or any person authorized by the Rules of Civil Procedure 399  
to serve process. 400

In the case of disobedience of any notice, order, or subpoena 401  
served on a person or the refusal of a witness to testify to a 402  
matter regarding which the person may lawfully be interrogated, 403  
the court of common pleas of the county where venue is 404  
appropriate, on application by the superintendent, may compel 405  
obedience by attachment proceedings for contempt, as in the case 406  
of disobedience of the requirements of a subpoena issued from such 407  
court, or a refusal to testify therein. Witnesses shall receive 408  
the fees and mileage allowed by section 2335.06 of the Revised 409  
Code. All such fees, upon the presentation of proper vouchers 410  
approved by the superintendent, shall be paid out of the 411  
appropriation for the contingent fund of the department of 412  
insurance. The fees and mileage of witnesses not summoned by the 413  
superintendent or the superintendent's designee shall not be paid 414  
by the state. 415

(3) In a case in which there is no administrative procedure 416  
available to the superintendent to resolve a matter at issue, 417  
request the attorney general to commence an action for a 418  
declaratory judgment under Chapter 2721. of the Revised Code with 419  
respect to the matter. 420

(4) Initiate criminal proceedings by presenting evidence of 421  
the commission of any criminal offense established under the laws 422  
of this state relating to insurance to the prosecuting attorney of 423

any county in which the offense may be prosecuted. At the request 424  
of the prosecuting attorney, the attorney general may assist in 425  
the prosecution of the violation with all the rights, privileges, 426  
and powers conferred by law on prosecuting attorneys including, 427  
but not limited to, the power to appear before grand juries and to 428  
interrogate witnesses before grand juries. 429

**Sec. 3905.451.** A life insurance policy or annuity that is 430  
issued, sold, or assigned for the purpose of purchasing funeral or 431  
burial goods or services, and the contractual obligation to 432  
provide the goods or services, are not subject to section ~~1111.19~~ 433  
4717.36 of the Revised Code. 434

**Sec. 4717.01.** As used in this chapter: 435

(A) "Embalming" means the preservation and disinfection, or 436  
attempted preservation and disinfection, of the dead human body by 437  
application of chemicals externally, internally, or both. 438

(B) "Funeral business" means a sole proprietorship, 439  
partnership, corporation, limited liability company, or other 440  
business entity that is engaged in funeral directing for profit or 441  
for free from one or more funeral homes licensed under this 442  
chapter. 443

(C) "Funeral directing" means the business or profession of 444  
directing or supervising funerals for profit, the arrangement or 445  
sale of funeral services, the filling out or execution of a 446  
funeral service contract, the business or profession of preparing 447  
dead human bodies for burial by means other than embalming, the 448  
disposition of dead human bodies, the provision or maintenance of 449  
a place for the preparation, the care, or disposition of dead 450  
human bodies, the use in connection with a business of the term 451  
"funeral director," "undertaker," "mortician," or any other term 452  
from which can be implied the business of funeral directing, or 453

the holding out to the public that one is a funeral director or a 454  
disposer of dead human bodies. 455

(D) "Funeral home" means a fixed place for the care, 456  
preparation for burial, or disposition of dead human bodies or the 457  
conducting of funerals. Each business location is a funeral home, 458  
regardless of common ownership or management. 459

(E) "Embalmer" means a person who engages, in whole or in 460  
part, in embalming and who is licensed under this chapter. 461

(F) "Funeral director" means a person who engages, in whole 462  
or in part, in funeral directing and who is licensed under this 463  
chapter. 464

(G) "Final disposition" has the same meaning as in division 465  
(J) of section 3705.01 of the Revised Code. 466

(H) "Supervision" means the operation of all phases of the 467  
business of funeral directing or embalming under the specific 468  
direction of a licensed funeral director or licensed embalmer. 469

(I) "Direct supervision" means the physical presence of a 470  
licensed funeral director or licensed embalmer while the specific 471  
functions of the funeral or embalming are being carried out. 472

(J) "Embalming facility" means a fixed location, separate 473  
from the funeral home, that is licensed under this chapter whose 474  
only function is the embalming and preparation of dead human 475  
bodies. 476

(K) "Crematory facility" means the physical location at which 477  
a cremation chamber is located and the cremation process takes 478  
place. "Crematory facility" does not include an infectious waste 479  
incineration facility for which a license is held under division 480  
(B) of section 3734.05 of the Revised Code, or a solid waste 481  
incineration facility for which a license is held under division 482  
(A) of that section that includes a notation pursuant to division 483



(B)(3) of that section authorizing the facility to also treat 484  
infectious wastes, in connection with the incineration of body 485  
parts other than dead human bodies that were donated to science 486  
for purposes of medical education or research. 487

(L) "Crematory" means the building or portion of a building 488  
that houses the holding facility and the cremation chamber. 489

(M) "Cremation" means the technical process of using heat and 490  
flame to reduce human or animal remains to bone fragments or ashes 491  
or any combination thereof. "Cremation" includes processing and 492  
may include the pulverization of bone fragments. 493

(N) "Cremation chamber" means the enclosed space within which 494  
cremation takes place. 495

(O) "Cremated remains" means all human or animal remains 496  
recovered after the completion of the cremation process, which may 497  
include the residue of any foreign matter such as casket material, 498  
dental work, or eyeglasses that were cremated with the human or 499  
animal remains. 500

(P) "Lapsed license" means a license issued under this 501  
chapter that has become invalid because of the failure of the 502  
licensee to renew the license within the time limits prescribed 503  
under this chapter. 504

(Q) "Operator of a crematory facility" means the sole 505  
proprietorship, partnership, corporation, limited liability 506  
company, or other business entity responsible for the overall 507  
operation of a crematory facility. 508

(R) "Processing" means the reduction of identifiable bone 509  
fragments to unidentifiable bone fragments through manual or 510  
mechanical means after the completion of the cremation process. 511

(S) "Pulverization" means the reduction of identifiable bone 512  
fragments to granulated particles by manual or mechanical means 513

after the completion of the cremation process. 514

(T) "Preneed funeral contract" means a written agreement, 515  
contract, or series of contracts to sell or otherwise provide any 516  
funeral services, funeral goods, or any combination thereof to be 517  
used in connection with the funeral or final disposition of a dead 518  
human body, where payment for the goods or services is made either 519  
outright or on an installment basis, prior to the death of the 520  
person purchasing the goods or services or for whom the goods or 521  
services are purchased. "Preneed funeral contract" does not 522  
include any preneed cemetery merchandise and services contract or 523  
any agreement, contract, or series of contracts pertaining to the 524  
sale of any burial lot, burial or interment right, entombment 525  
right, or columbarium right with respect to which an endowment 526  
care fund is established or is exempt from establishment pursuant 527  
to section 1721.21 of the Revised Code. 528

For the purposes of division (T) of this section, "funeral 529  
goods" includes caskets. 530

(U) "Purchaser" means the individual who has purchased and 531  
financed a preneed funeral contract, and who may or may not be the 532  
contract beneficiary. 533

(V) "Contract beneficiary" means the individual for whom 534  
funeral goods and funeral services are provided pursuant to a 535  
preneed funeral contract. 536

(W) "Seller" means any person that enters into a preneed 537  
funeral contract with a purchaser for the provision of funeral 538  
goods, funeral services, or both. 539

**Sec. 4717.03.** (A) Members of the board of embalmers and 540  
funeral directors shall annually in July, or within thirty days 541  
after the senate's confirmation of the new members appointed in 542  
that year, meet and organize by selecting from among its members a 543

president, vice-president, and secretary-treasurer. The board may 544  
hold other meetings as it determines necessary. A quorum of the 545  
board consists of four members, of whom at least three shall be 546  
members who are embalmers and funeral directors. The concurrence 547  
of at least four members is necessary for the board to take any 548  
action. The president and secretary-treasurer shall sign all 549  
licenses issued under this chapter and affix the board's seal to 550  
each license. 551

(B) The board may appoint an individual who is not a member 552  
of the board to serve as executive director of the board. The 553  
executive director serves at the pleasure of the board and shall 554  
do all of the following: 555

- (1) Serve as the board's chief administrative officer; 556
- (2) Act as custodian of the board's records; 557
- (3) Execute all of the board's orders. 558

In executing the board's orders, the executive director may 559  
enter the premises, establishment, office, or place of business of 560  
any embalmer, funeral director, or operator of a crematory 561  
facility in this state. The executive director may serve and 562  
execute any process issued by any court under this chapter. 563

(C) The board may employ clerical or technical staff who are 564  
not members of the board and who serve at the pleasure of the 565  
board to provide any clerical or technical assistance the board 566  
considers necessary. The board may employ necessary inspectors, 567  
who shall be licensed embalmers and funeral directors. Any 568  
inspector employed by the board may enter the premises, 569  
establishment, office, or place of business of any embalmer, 570  
funeral director, or operator of a crematory facility in this 571  
state, for the purposes of inspecting the facility and premises; 572  
the license and registration of embalmers and funeral directors 573  
operating in the facility; and the license of the funeral home, 574

embalming facility, or crematory. The inspector shall serve and 575  
execute any process issued by any court under this chapter, serve 576  
and execute any papers or process issued by the board or any 577  
officer or member of the board, and perform any other duties 578  
delegated by the board. 579

(D) The president of the board shall designate three of its 580  
members to serve on the crematory review board, which is hereby 581  
created, for such time as the president finds appropriate to carry 582  
out the provisions of this chapter. Those members of the crematory 583  
review board designated by the president to serve and three 584  
members designated by the cemetery dispute resolution commission 585  
shall designate, by a majority vote, one person who is experienced 586  
in the operation of a crematory facility and who is not affiliated 587  
with a cemetery or a funeral home to serve on the crematory review 588  
board for such time as the crematory review board finds 589  
appropriate. Members serving on the crematory review board shall 590  
not receive any additional compensation for serving on the board, 591  
but may be reimbursed for their actual and necessary expenses 592  
incurred in the performance of official duties as members of the 593  
board. Members of the crematory review board shall designate one 594  
from among its members to serve as a chairperson for such time as 595  
the board finds appropriate. Costs associated with conducting an 596  
adjudicatory hearing in accordance with division (E) of this 597  
section shall be paid from funds available to the board of 598  
embalmers and funeral directors. 599

(E) Upon receiving written notice from the board of embalmers 600  
and funeral directors of any of the following, the crematory 601  
review board shall conduct an adjudicatory hearing on the matter 602  
in accordance with Chapter 119. of the Revised Code, except as 603  
otherwise provided in this section or division (C) of section 604  
4717.14 of the Revised Code: 605

(1) Notice provided under division (H) of this section of an 606

alleged violation of any provision of this chapter or any rules 607  
adopted under this chapter, ~~or section 1111.19 of the Revised~~ 608  
~~Code,~~ governing or in connection with crematory facilities or 609  
cremation; 610

(2) Notice provided under division (B) of section 4717.14 of 611  
the Revised Code that the board of embalmers and funeral directors 612  
proposes to refuse to grant or renew, or to suspend or revoke, a 613  
license to operate a crematory facility; 614

(3) Notice provided under division (C) of section 4717.14 of 615  
the Revised Code that the board of embalmers and funeral directors 616  
has issued an order summarily suspending a license to operate a 617  
crematory facility; 618

(4) Notice provided under division (B) of section 4717.15 of 619  
the Revised Code that the board of embalmers and funeral directors 620  
proposes to issue a notice of violation and order requiring 621  
payment of a forfeiture for any violation described in divisions 622  
(A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in 623  
connection with a crematory facility or cremation. 624

Nothing in division (E) of this section precludes the 625  
crematory review board from appointing an independent examiner in 626  
accordance with section 119.09 of the Revised Code to conduct any 627  
adjudication hearing required under division (E) of this section. 628

The crematory review board shall submit a written report of 629  
findings and advisory recommendations, and a written transcript of 630  
its proceedings, to the board of embalmers and funeral directors. 631  
The board of embalmers and funeral directors shall serve a copy of 632  
the written report of the crematory review board's findings and 633  
advisory recommendations on the party to the adjudication or the 634  
party's attorney, by certified mail, within five days after 635  
receiving the report and advisory recommendations. A party may 636  
file objections to the written report with the board of embalmers 637

and funeral directors within ten days after receiving the report. 638  
No written report is final or appealable until it is issued as a 639  
final order by the board of embalmers and funeral directors and 640  
entered on the record of the proceedings. The board of embalmers 641  
and funeral directors shall consider objections filed by the party 642  
prior to issuing a final order. After reviewing the findings and 643  
advisory recommendations of the crematory review board, the 644  
written transcript of the crematory review board's proceedings, 645  
and any objections filed by a party, the board of embalmers and 646  
funeral directors shall issue a final order in the matter. Any 647  
party may appeal the final order issued by the board of embalmers 648  
and funeral directors in a matter described in divisions (E)(1) to 649  
(4) of this section in accordance with section 119.12 of the 650  
Revised Code, except that the appeal may be made to the court of 651  
common pleas in the county in which is located the crematory 652  
facility to which the final order pertains, or in the county in 653  
which the party resides. 654

(F) On its own initiative or on receiving a written complaint 655  
from any person whose identity is made known to the board of 656  
embalmers and funeral directors, the board shall investigate the 657  
acts or practices of any person holding or claiming to hold a 658  
license or registration under this chapter that, if proven to have 659  
occurred, would violate this chapter or any rules adopted under 660  
it, ~~or section 1111.19 of the Revised Code.~~ The board may compel 661  
witnesses by subpoena to appear and testify in relation to 662  
investigations conducted under this chapter and may require by 663  
subpoena duces tecum the production of any book, paper, or 664  
document pertaining to an investigation. If a person does not 665  
comply with a subpoena or subpoena duces tecum, the board may 666  
apply to the court of common pleas of any county in this state for 667  
an order compelling the person to comply with the subpoena or 668  
subpoena duces tecum, or for failure to do so, to be held in 669  
contempt of court. 670

(G) If, as a result of its investigation conducted under 671  
division (F) of this section, the board of embalmers and funeral 672  
directors has reasonable cause to believe that the person 673  
investigated is violating any provision of this chapter or any 674  
rules adopted under this chapter, ~~or section 1111.19 of the~~ 675  
~~Revised Code,~~ governing or in connection with embalming, funeral 676  
directing, funeral homes, embalming facilities, or the operation 677  
of funeral homes or embalming facilities, it may, after providing 678  
the opportunity for an adjudicatory hearing, issue an order 679  
directing the person to cease the acts or practices that 680  
constitute the violation. The board shall conduct the adjudicatory 681  
hearing in accordance with Chapter 119. of the Revised Code except 682  
that, notwithstanding the provisions of that chapter, the 683  
following shall apply: 684

(1) The board shall send the notice informing the person of 685  
the person's right to a hearing by certified mail. 686

(2) The person is entitled to a hearing only if the person 687  
requests a hearing and if the board receives the request within 688  
thirty days after the mailing of the notice described in division 689  
(G)(1) of this section. 690

(3) A stenographic record shall be taken, in the manner 691  
prescribed in section 119.09 of the Revised Code, at every 692  
adjudicatory hearing held under this section, regardless of 693  
whether the record may be the basis of an appeal to a court. 694

(H) If, as a result of its investigation conducted under 695  
division (F) of this section, the board of embalmers and funeral 696  
directors has reasonable cause to believe that the person 697  
investigated is violating any provision of this chapter or any 698  
rules adopted under this chapter, ~~or section 1111.19 of the~~ 699  
~~Revised Code,~~ governing or in connection with crematory facilities 700  
or cremation, the board shall send written notice of the alleged 701  
violation to the crematory review board. If, after the conclusion 702

of the adjudicatory hearing in the matter conducted under division 703  
(E) of this section, the board of embalmers and funeral directors 704  
finds that a person is in violation of any provision of this 705  
chapter or any rules adopted under this chapter, ~~or section~~ 706  
~~1111.19 of the Revised Code~~, governing or in connection with 707  
crematory facilities or cremation, the board may issue a final 708  
order under that division directing the person to cease the acts 709  
or practices that constitute the violation. 710

(I) The board of embalmers and funeral directors may bring a 711  
civil action to enjoin any violation or threatened violation of 712  
~~section 1111.19~~; sections 4717.01 to 4717.15 of the Revised Code 713  
or a rule adopted under any of those sections; division (A) or (B) 714  
of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), 715  
(E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 716  
division (D)(1) of section 4717.27; ~~or~~ divisions (A) to (C) of 717  
section 4717.28, or division (D) or (E) of section 4717.31 of the 718  
Revised Code. The action shall be brought in the county where the 719  
violation occurred or the threatened violation is expected to 720  
occur. At the request of the board, the attorney general shall 721  
represent the board in any matter arising under this chapter. 722

(J) The board of embalmers and funeral directors and the 724  
crematory review board may issue subpoenas for funeral directors 725  
and embalmers or persons holding themselves out as such, for 726  
operators of crematory facilities or persons holding themselves 727  
out as such, or for any other person whose testimony, in the 728  
opinion of either board, is necessary. The subpoena shall require 729  
the person to appear before the appropriate board or any 730  
designated member of either board, upon any hearing conducted 731  
under this chapter. The penalty for disobedience to the command of 732  
such a subpoena is the same as for refusal to answer such a 733  
process issued under authority of the court of common pleas. 734



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

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

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

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

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

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

conveyance;	766
(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;	767 768 769 770 771 772 773
(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;	774 775
(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;	776 777 778
(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;	779 780 781
(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;	782 783
(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.	784 785 786 787
(B) No funeral director or other person in charge of the final disposition of a dead human body shall fail to do one of the following prior to the interment of the body:	788 789 790
(1) Affix to the ankle or wrist of the deceased a tag encased in a durable and long-lasting material that contains the name, date of birth, date of death, and social security number of the deceased;	791 792 793 794
(2) Place in the casket a capsule containing a tag bearing	795

the information described in division (B)(1) of this section;	796
(3) If the body was cremated, place in the vessel containing	797
the cremated remains a tag bearing the information described in	798
division (B)(1) of this section.	799
(C) No person who holds a funeral home license for a funeral	800
home that is closed, or that is owned by a funeral business in	801
which changes in the ownership of the funeral business result in a	802
majority of the ownership of the funeral business being held by	803
one or more persons who solely or in combination with others did	804
not own a majority of the funeral business immediately prior to	805
the change in ownership, shall fail to submit to the board within	806
thirty days after the closing or such a change in ownership of the	807
funeral business owning the funeral home, a clearly enumerated	808
account of all of the following from which the licensee, at the	809
time of the closing or change in ownership of the funeral business	810
and in connection with the funeral home, was to receive payment	811
for providing funeral services, funeral goods, or any combination	812
of those in connection with the funeral or final disposition of a	813
dead human body:	814
(1) Preneed funeral contracts governed by <del>section 1111.19</del>	815
<u>sections 4717.31 to 4717.38</u> of the Revised Code;	816
(2) Life insurance policies <u>or annuities</u> the benefits of	817
which are payable to the provider of funeral or burial goods or	818
services;	819
(3) Accounts at banks or savings banks insured by the federal	820
deposit insurance corporation, savings and loan associations	821
insured by the federal savings and loan insurance corporation or	822
the Ohio deposit guarantee fund, or credit unions insured by the	823
national credit union administration or a credit union share	824
guaranty corporation organized under Chapter 1761. of the Revised	825
Code that are payable upon the death of the person for whose	826

benefit deposits into the accounts were made. 827

**Sec. 4717.14.** (A) The board of embalmers and funeral 828  
directors may refuse to grant or renew, or may suspend or revoke, 829  
any license issued under this chapter for any of the following 830  
reasons: 831

(1) The license was obtained by fraud or misrepresentation 832  
either in the application or in passing the examination. 833

(2) The applicant or licensee has been convicted of or has 834  
pleaded guilty to a felony or of any crime involving moral 835  
turpitude. 836

(3) The applicant or licensee has purposely violated any 837  
provision of sections 4717.01 to 4717.15 or a rule adopted under 838  
any of those sections; division (A) or (B) of section 4717.23; 839  
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 840  
or divisions (H) to (K) of section 4717.26; division (D)(1) of 841  
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 842  
Revised Code; any rule or order of the department of health or a 843  
board of health of a health district governing the disposition of 844  
dead human bodies; or any other rule or order applicable to the 845  
applicant or licensee. 846

(4) The applicant or licensee has committed immoral or 847  
unprofessional conduct. 848

(5) The applicant or licensee knowingly permitted an 849  
unlicensed person, other than a person serving an apprenticeship, 850  
to engage in the profession or business of embalming or funeral 851  
directing under the applicant's or licensee's supervision. 852

(6) The applicant or licensee has been habitually 853  
intoxicated, or is addicted to the use of morphine, cocaine, or 854  
other habit-forming or illegal drugs. 855

(7) The applicant or licensee has refused to promptly submit 856

the custody of a dead human body upon the express order of the 857  
person legally entitled to the body. 858

(8) The licensee loaned the licensee's own license, or the 859  
applicant or licensee borrowed or used the license of another 860  
person, or knowingly aided or abetted the granting of an improper 861  
license. 862

(9) The applicant or licensee transferred a license to 863  
operate a funeral home, embalming facility, or crematory from one 864  
owner or operator to another, or from one location to another, 865  
without notifying the board. 866

(10) The applicant or licensee mislead the public by using 867  
false or deceptive advertising. 868

(B)(1) The board of embalmers and funeral directors shall 869  
refuse to grant or renew, or shall suspend or revoke, an 870  
embalmer's, funeral director's, funeral home, or embalming 871  
facility license only in accordance with Chapter 119. of the 872  
Revised Code. 873

(2) The board shall send to the crematory review board 874  
written notice that it proposes to refuse to issue or renew, or 875  
proposes to suspend or revoke, a license to operate a crematory 876  
facility. If, after the conclusion of the adjudicatory hearing on 877  
the matter conducted under division (E) of section 4717.03 of the 878  
Revised Code, the board of embalmers and funeral directors finds 879  
that any of the circumstances described in divisions (A)(1) to 880  
(10) of this section apply to the person named in its proposed 881  
action, the board may issue a final order under division (E) of 882  
section 4717.03 of the Revised Code refusing to issue or renew, or 883  
suspending or revoking, the person's license to operate a 884  
crematory facility. 885

(C) If the board of embalmers and funeral directors 886  
determines that there is clear and convincing evidence that any of 887

the circumstances described in divisions (A)(1) to (10) of this 888  
section apply to the holder of a license issued under this chapter 889  
and that the licensee's continued practice presents a danger of 890  
immediate and serious harm to the public, the board may suspend 891  
the licensee's license without a prior adjudicatory hearing. The 892  
executive director of the board shall prepare written allegations 893  
for consideration by the board. 894

The board, after reviewing the written allegations, may 895  
suspend a license without a prior hearing. 896

The board shall issue a written order of suspension by 897  
certified mail or in person in accordance with section 119.07 of 898  
the Revised Code. Such an order is not subject to suspension by 899  
the court during the pendency of any appeal filed under section 900  
119.12 of the Revised Code. If the holder of an embalmer's, 901  
funeral director's, funeral home, or embalming facility license 902  
requests an adjudicatory hearing by the board, the date set for 903  
the hearing shall be within fifteen days, but not earlier than 904  
seven days, after the licensee has requested a hearing, unless the 905  
board and the licensee agree to a different time for holding the 906  
hearing. 907

Upon issuing a written order of suspension to the holder of a 908  
license to operate a crematory facility, the board of embalmers 909  
and funeral directors shall send written notice of the issuance of 910  
the order to the crematory review board. The crematory review 911  
board shall hold an adjudicatory hearing on the order under 912  
division (E) of section 4717.03 of the Revised Code within fifteen 913  
days, but not earlier than seven days, after the issuance of the 914  
order, unless the crematory review board and the licensee agree to 915  
a different time for holding the adjudicatory hearing. 916

Any summary suspension imposed under this division shall 917  
remain in effect, unless reversed on appeal, until a final 918  
adjudicatory order issued by the board of embalmers and funeral 919

directors pursuant to this division and Chapter 119. of the 920  
Revised Code, or division (E) of section 4717.03 of the Revised 921  
Code, as applicable, becomes effective. The board of embalmers and 922  
funeral directors shall issue its final adjudicatory order within 923  
sixty days after the completion of its hearing or, in the case of 924  
the summary suspension of a license to operate a crematory 925  
facility, within sixty days after completion of the adjudicatory 926  
hearing by the crematory review board. A failure to issue the 927  
order within that time results in the dissolution of the summary 928  
suspension order, but does not invalidate any subsequent final 929  
adjudicatory order. 930

(D) If the board of embalmers and funeral directors suspends 931  
or revokes a license held by a funeral director or a funeral home 932  
for any reason identified in division (A) of this section and the 933  
board has clear and convincing evidence that the funeral home that 934  
holds the suspended or revoked license or the licensed funeral 935  
home that employs the funeral director that holds the suspended or 936  
revoked license is insolvent or is unable to perform its 937  
contractual obligation under the preneed funeral contracts to 938  
which it is a party, the board may file a complaint with the court 939  
of common pleas in the county where the funeral home is located 940  
requesting appointment of a receiver to operate or liquidate such 941  
funeral home. If the court of common pleas is satisfied with the 942  
application for a receivership, the court may appoint a receiver. 943

The board or a receiver may employ and procure whatever 945  
assistance or advice is necessary in the receivership or 946  
liquidation and distribution of the assets of the funeral home, 947  
and, for that purpose, may retain officers or employees of the 948  
funeral home as needed. All expenses of the receivership or 949  
liquidation shall be paid from the assets of the funeral home and 950  
shall be a lien on those assets, and that lien shall be a priority 951

to any other lien. 952

(E) Any holder of a license issued under this chapter who has 953  
pleaded guilty to, has been found by a judge or jury to be guilty 954  
of, or has had a judicial finding of eligibility for treatment in 955  
lieu of conviction entered against the individual in this state 956  
for aggravated murder, murder, voluntary manslaughter, felonious 957  
assault, kidnapping, rape, sexual battery, gross sexual 958  
imposition, aggravated arson, aggravated robbery, or aggravated 959  
burglary, or who has pleaded guilty to, has been found by a judge 960  
or jury to be guilty of, or has had a judicial finding of 961  
eligibility for treatment in lieu of conviction entered against 962  
the individual in another jurisdiction for any substantially 963  
equivalent criminal offense, is hereby suspended from practice 964  
under this chapter by operation of law, and any license issued to 965  
the individual under this chapter is hereby suspended by operation 966  
of law as of the date of the guilty plea, verdict or finding of 967  
guilt, or judicial finding of eligibility for treatment in lieu of 968  
conviction, regardless of whether the proceedings are brought in 969  
this state or another jurisdiction. The board shall notify the 970  
suspended individual of the suspension of the individual's license 971  
by the operation of this division by certified mail or in person 972  
in accordance with section 119.07 of the Revised Code. If an 973  
individual whose license is suspended under this division fails to 974  
make a timely request for an adjudicatory hearing, the board shall 975  
enter a final order revoking the license. 976

~~(E)~~(F) No person whose license has been suspended or revoked 977  
under or by the operation of this section shall practice embalming 978  
or funeral directing or operate a funeral home, embalming 979  
facility, or crematory facility until the board has reinstated the 980  
person's license. 981

**Sec. 4717.31.** (A) Only a funeral director licensed pursuant 982



to this chapter may sell a preneed funeral contract that includes 983  
funeral services. Sections 4717.31 to 4717.38 of the Revised Code 984  
do not prohibit a person who is not a licensed funeral director 985  
from selling funeral goods pursuant to a preneed funeral contract; 986  
however, when a seller sells funeral goods pursuant to a preneed 987  
funeral contract, that seller shall comply with those sections 988  
unless the seller is specifically exempt from compliance under 989  
section 4717.38 of the Revised Code. 990

(B) An insurance agent licensed pursuant to Chapter 3905. of 991  
the Revised Code may sell, solicit, or negotiate the sale of an 992  
insurance policy or annuity that will be used to fund a preneed 993  
funeral contract, but in so doing the insurance agent may not 994  
offer advice or make recommendations about funeral services and 995  
may not discuss the advantages or disadvantages of any funeral 996  
service. In selling, soliciting, or negotiating the sale of an 997  
insurance policy or annuity that will be used to fund a preneed 998  
funeral contract, the insurance agent may do any of the following: 999

(1) Provide the person purchasing the insurance or annuity 1000  
with price lists from one or more funeral homes and other 1001  
materials that may assist the person in determining the cost of 1002  
funeral goods and services; 1003

(2) Discuss the cost of funeral goods and services with the 1004  
person in order to assist the person in selecting the appropriate 1005  
amount of life insurance or annuity coverage; 1006

(3) Complete a worksheet or other record to calculate the 1007  
estimated cost of a funeral. 1008

(C) Activities conducted pursuant to division (B) of this 1009  
section by an insurance agent licensed pursuant to Chapter 3905. 1010  
of the Revised Code do not constitute funeral directing, funeral 1011  
arranging, the business of directing and supervising funerals for 1012  
profit, or the sale of a preneed funeral contract. 1013

(D) No seller shall fail to comply with the requirements and 1014  
duties specified in this section and sections 4717.32 to 4717.38 1015  
of the Revised Code. 1016

(E) No trustee of a preneed funeral contract trust shall fail 1017  
to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of 1018  
the Revised Code. 1019

(F) No insurance agent or insurance company that sells or 1020  
offers life insurance policies or annuities used to fund a preneed 1021  
funeral contract shall fail to comply with this section and 1022  
sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised 1023  
Code. To the extent this section and sections 4717.33, 4717.34, 1024  
4717.35, and 4717.37 of the Revised Code apply to insurance 1025  
companies or insurance agents, those sections constitute laws of 1026  
this state relating to insurance for purposes of sections 3901.03 1027  
and 3901.04 of the Revised Code and the superintendent of 1028  
insurance shall enforce those sections with respect to insurance 1029  
companies and insurance agents. The superintendent may adopt rules 1030  
in accordance with Chapter 119. of the Revised Code for purposes 1031  
of administering and enforcing this section and sections 4717.33, 1032  
4717.34, 4717.35, and 4717.37 of the Revised Code as those 1033  
sections apply to insurance companies or insurance agents. 1034

(G) A preneed funeral contract may be funded by the purchase 1036  
or assignment of an insurance policy or annuity in accordance with 1037  
section 3905.45 of the Revised Code. A preneed funeral contract 1038  
that is funded by the purchase or assignment of an insurance 1039  
policy or annuity in accordance with section 3905.45 of the 1040  
Revised Code is not subject to section 4717.36 of the Revised 1041  
Code. 1042

(H) The board of embalmers and funeral directors shall 1043  
administer and enforce the provisions of sections 4717.31 to 1044  
4717.38 of the Revised Code concerning the requirements for and 1045

sale of preneed funeral contracts. The superintendent of insurance 1046  
shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 1047  
4717.37 of the Revised Code to the extent those sections apply to 1048  
insurance companies and insurance agents. Payments from a trust, 1049  
insurance policy, or annuity, including any fraudulent activities 1050  
in which a person engages to obtain payments from a trust, 1051  
insurance policy, or annuity, shall be regulated in accordance 1052  
with Chapter 1111. or Title XXXIX of the Revised Code, as 1053  
applicable. 1054

(I) A seller of a preneed funeral contract that is funded by 1055  
insurance or otherwise annually shall submit to the board the 1056  
reports the board requires pursuant to division (J) of this 1057  
section. 1058

(J) The board shall adopt rules specifying the procedures and 1059  
requirements for annual reporting of the sales of all preneed 1060  
funeral contracts sold by every seller who is subject to sections 1061  
4717.31 to 4717.38 of the Revised Code. 1062

**Sec. 4717.32.** (A) Any preneed funeral contract that involves 1063  
the payment of money or the purchase or assignment of an insurance 1064  
policy or annuity shall be in writing and shall include all of the 1065  
following information: 1066

(1) The name, address, and phone number of the seller and the 1067  
name and address of the purchaser of the contract, and, if the 1068  
contract beneficiary is someone other than the purchaser of the 1069  
contract, the name and address of the contract beneficiary, and if 1070  
the contract involves the payment of money but not the purchase or 1071  
assignment of an insurance policy or annuity, the social security 1072  
number of the purchaser of the contract or if the contract 1073  
beneficiary is someone other than the purchaser, the social 1074  
security number of the contract beneficiary; 1075

(2) A statement of the funeral goods and funeral services 1076

purchased, which disclosure may be made by attaching a copy of the 1077  
completed statement of funeral goods and services selected to the 1078  
preneed funeral contract; 1079

(3) A disclosure informing the purchaser whether the contract 1080  
is either a guaranteed preneed funeral contract or a nonguaranteed 1081  
preneed funeral contract, and, if the contract is guaranteed only 1082  
in part, a disclosure specifying the funeral goods or funeral 1083  
services included in the guarantee; 1084

(4) If the preneed funeral contract is a guaranteed contract, 1085  
a disclosure that the seller, in exchange for all of the proceeds 1086  
of the trust, insurance policy, or annuity, shall provide the 1087  
funeral goods and funeral services set forth in the preneed 1088  
funeral contract without regard to the actual cost of such funeral 1089  
goods and funeral services prevailing at the time of performance 1090  
and that the seller may receive any excess funds remaining after 1091  
all expenses for the funeral have been paid. 1092

(5) If the preneed funeral contract is a nonguaranteed 1093  
contract, a disclosure that the proceeds of the trust, insurance 1094  
policy, or annuity shall be applied to the retail prices in effect 1095  
at the time of the funeral for the funeral goods and funeral 1096  
services set forth in the contract, that any excess funds 1097  
remaining after all expenses for the funeral have been paid shall 1098  
be paid to the estate of the decedent or the beneficiary named in 1099  
the life insurance policy if the preneed funeral contract is 1100  
funded by a life insurance policy, and that, in the event of an 1101  
insufficiency in funds, the seller shall not be required to 1102  
perform until payment arrangements satisfactory to the seller have 1103  
been made. 1104

(6) A disclosure that the purchaser has the right to make the 1105  
contract irrevocable and that if the preneed funeral contract is 1106  
irrevocable, the purchaser does not have a right to revoke the 1107  
contract; 1108

(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; 1109  
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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; 1115  
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(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; 1119  
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(10) The following notice in boldface print and in substantially the following form: 1124  
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"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." 1126  
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(11) The notice described in division (A) of section 4717.34 of the Revised Code. 1136  
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(B) If a preneed funeral contract is funded by any means other than an insurance policy or policies, or an annuity or 1138  
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annuities, the preneed funeral contract shall include all of the 1140  
following information in addition to the information required to 1141  
be included under division (A) of this section: 1142

(1) Disclosures identifying the name and address of the 1143  
trustee of the preneed funeral contract trust established pursuant 1144  
to section 4717.36 of the Revised Code, indicating whether fees, 1145  
expenses, or taxes will be deducted from the trust, and a 1146  
statement of who will be responsible for the taxes owed on the 1147  
trust earnings; 1148

(2) A disclosure explaining the form in which the purchase 1149  
price must be paid and, if the price is to be paid in 1150  
installments, a disclosure to the purchaser regarding what 1151  
constitutes a default under the preneed funeral contract and the 1152  
consequences of the default; 1153

(3) The following notice in boldface print and in 1154  
substantially the following form: 1155

"NOTICE: You, as the purchaser of this contract, will be 1156  
notified in writing when the trustee of this contract has received 1157  
a deposit of the funds you paid the seller under this contract. If 1158  
you do not receive that notice within sixty days after the date 1159  
you paid the funds to the seller, you should contact the trustee 1160  
identified in the contract." 1161

(4) A disclosure that a purchaser of a preneed funeral 1162  
contract that is irrevocable and that stipulates a firm or fixed 1163  
or guaranteed price for the funeral services and goods to be 1164  
provided under the preneed funeral contract may be charged a 1165  
transfer fee as specified in division (F) of section 4717.36 of 1166  
the Revised Code if the purchaser wishes to transfer the contract 1167  
to another seller. 1168

(C) If a preneed funeral contract is funded by the purchase 1169  
or assignment of one or more insurance policies or annuities, the 1170

preneed funeral contract shall include all of the following 1171  
information in addition to the information required to be included 1172  
under division (A) of this section: 1173

(1) The name and address of each applicable insurance company 1174  
and any right the purchaser has regarding canceling or 1175  
transferring the applicable insurance policies or annuities; 1176

(2) A description of the terms of payment for any remaining 1177  
payments due if the funding is to be paid in installments; 1178

(3) A list of actions that constitute default under a preneed 1179  
funeral contract and the consequences of a default; 1180

(4) The following notice in boldface print and in 1181  
substantially the following form: 1182

"NOTICE: You, as the purchaser of this contract, will be 1183  
notified in writing by the insurance company identified in this 1184  
contract when the insurance policy or policies, or annuity or 1185  
annuities, that will fund this contract have been issued. If you 1186  
do not receive the notice within sixty days after the date you 1187  
paid the funds to the seller, you should contact the insurance 1188  
company identified in the contract." 1189

(D) The seller of a preneed funeral contract that is funded 1190  
by the purchase or assignment of one or more insurance policies or 1191  
annuities does not need to include in the contract the information 1192  
described in divisions (C)(2) and (3) of this section if those 1193  
disclosures are provided in the application for a life insurance 1194  
policy or annuity or in the life insurance policy or annuity. 1195

**Sec. 4717.33.** (A) If a preneed funeral contract is funded by 1196  
any means other than an insurance policy or policies, or an 1197  
annuity or annuities, the trustee of the trust created pursuant to 1198  
section 4717.36 of the Revised Code shall notify the purchaser of 1199  
the preneed funeral contract in writing, within fifteen days after 1200

the trustee receives any payment to be deposited into the trust, 1201  
that the trustee has received payment. The notice shall include 1202  
all of the following information: 1203

(1) The amount the trustee received; 1204

(2) The name and address of the institution described in 1205  
division (B) of section 4717.36 of the Revised Code where the 1206  
trust is being held; 1207

(3) The name of the beneficiary of that trust. 1208

(B) If a preneed funeral contract is funded by the purchase 1209  
or assignment of one or more insurance policies or annuities, the 1210  
insurance company shall notify the purchaser of the preneed 1211  
funeral contract in writing within sixty days after the insurance 1212  
company receives an initial premium payment applicable to that 1213  
preneed funeral contract. The notice shall include all of the 1214  
following information that is pertinent to that preneed funeral 1215  
contract: 1216

(1) The amount the insurance company received; 1217

(2) The name and address of the insurance company; 1218

(3) The name of the insured; 1219

(4) The amount of the death benefit; 1220

(5) The policy or contract number of the insurance policy, 1221  
annuity, or contract. 1222

(C) For purposes of division (B) of this section, delivery of 1223  
an insurance policy, certificate, annuity, or contract to the 1224  
purchaser shall satisfy the notice requirement specified in that 1225  
division. 1226

**Sec. 4717.34.** (A) Any purchaser, on initially entering into a 1227  
preneed funeral contract may, within seven days after entering 1228



into that contract, rescind the contract and request and receive 1229  
from the seller of the contract one hundred per cent of all 1230  
payments made under the contract. Each preneed funeral contract 1231  
shall contain the following notice in boldface print and in 1232  
substantially the following form: 1233

"NOTICE: Under Ohio law, you, as the purchaser of this 1234  
contract, may rescind it and receive a refund of all payments you 1235  
made under the contract. To rescind the contract, you must notify 1236  
the seller within seven days of signing the contract." 1237

(B) No preneed funeral contract shall contain a provision 1238  
that restricts the purchaser from making the contract irrevocable. 1239  
On the purchase by an individual of an irrevocable preneed funeral 1240  
contract, the funeral director who sold the contract assumes the 1241  
legal obligation to provide for the funeral of the individual 1242  
pursuant to the terms of the contract. No money deposited in a 1243  
trust fund for an irrevocable preneed funeral contract shall be 1244  
withdrawn to purchase an insurance policy or annuity, except that 1245  
a trustee may use money in the trust fund to purchase a life 1246  
insurance policy or annuity as an investment for the trust fund. 1247

**Sec. 4717.35.** If a preneed funeral contract contains a 1248  
provision stating that the preneed funeral contract will be funded 1249  
by the purchase of an insurance policy, the insurance agent who 1250  
sold the policy that will fund that preneed funeral contract shall 1251  
remit the application for insurance and the premium paid to the 1252  
insurance company designated in the preneed funeral contract 1253  
within the time period specified in division (B)(15) of section 1254  
3905.14 of the Revised Code, unless the purchaser rescinds the 1255  
preneed funeral contract in accordance with division (A) of 1256  
section 4717.34 of the Revised Code. 1257

If the purchaser of a preneed funeral contract that is 1258

revocable and that is funded by an insurance policy or annuity 1259  
elects to cancel the preneed funeral contract, the purchaser shall 1260  
provide a written notice to the seller and the insurance company 1261  
designated in the contract stating that the purchaser intends to 1262  
cancel that contract. Fifteen days after the purchaser provides 1263  
the notice to the seller of the contract and the insurance 1264  
company, the purchaser may cancel the preneed funeral contract and 1265  
change the beneficiary of the insurance policy or annuity or 1266  
reassign the benefits under the policy or annuity. 1267

The purchaser of a preneed funeral contract that is 1268  
irrevocable and that is funded by an insurance policy or annuity 1269  
may transfer the preneed funeral contract to a successor seller by 1270  
notifying the original seller of the designation of a successor 1271  
seller. Within fifteen days after receiving the written notice of 1272  
the designation of the successor seller from the purchaser, the 1273  
original seller shall assign the seller's rights to the proceeds 1274  
of the policy to the successor seller. The insurance company shall 1275  
confirm the change of assignment by providing written notice to 1276  
the policyholder. 1277

**Sec. 4717.36.** (A) This section applies only to preneed 1278  
funeral contracts that are funded by any means other than an 1279  
insurance policy or policies, or an annuity or annuities. 1280

One hundred per cent of all payments for funeral goods and 1281  
funeral services made under a preneed funeral contract shall 1282  
remain intact and held in trust in accordance with this section 1283  
for the benefit of the contract beneficiary. No money in a preneed 1284  
funeral contract trust shall be distributed from the trust except 1285  
as provided in this section. Within thirty days after the provider 1286  
of the funeral goods or funeral services receives any payment 1287  
under a preneed funeral contract, the seller of the preneed 1288  
funeral contract shall deliver the moneys received for that 1289

preneed funeral contract that have not been returned to the 1290  
purchaser as provided in division (A) of section 4717.34 of the 1291  
Revised Code to the trustee designated in the preneed funeral 1292  
contract. 1293

(B) The seller shall establish a preneed funeral contract 1294  
trust at one of the following types of institutions and shall 1295  
designate that institution as the trustee of the preneed funeral 1296  
contract trust: 1297

(1) A trust company licensed under Chapter 1111. of the 1298  
Revised Code; 1299

(2) A national bank, federal savings bank, or federal savings 1300  
association that pledges securities in accordance with section 1301  
1111.04 of the Revised Code; 1302

(3) A credit union authorized to conduct business in this 1303  
state pursuant to Chapter 1733. of the Revised Code. 1304

(C) Moneys deposited in a preneed funeral contract trust fund 1305  
shall be held and invested in the manner in which trust funds are 1306  
permitted to be held and invested pursuant to Chapter 1111. of the 1307  
Revised Code. 1308

(D) The seller shall establish a separate preneed funeral 1309  
contract trust for the moneys paid under each preneed funeral 1310  
contract, unless the purchaser or purchasers of a preneed funeral 1311  
contract or contracts authorize the seller to place the moneys 1312  
paid for that contract or those contracts in a combined preneed 1313  
funeral contract trust. The trustee of a combined preneed funeral 1314  
contract trust shall keep exact records of the corpus, income, 1315  
expenses, and disbursements with regard to each purchaser and 1316  
contract beneficiary for whom moneys are held in the trust. The 1317  
terms of a preneed funeral contract trust are governed by this 1318  
section and the payments from that trust are governed by Chapter 1319  
1111. of the Revised Code, except as otherwise provided in this 1320

section. 1321

A trustee of a preneed funeral contract trust may pay taxes 1322  
and expenses for a preneed funeral contract trust and may charge a 1323  
fee for managing a preneed funeral contract trust. The fee shall 1324  
not exceed the amount regularly or usually charged for similar 1325  
services rendered by the institutions described in division (B) of 1326  
this section when serving as a trustee. The taxes, expenses, and 1327  
fees shall be paid only from the accumulated income on that trust. 1328

(E) If the purchaser of a preneed funeral contract that is 1329  
revocable elects to cancel the contract, the purchaser shall 1330  
provide a written notice to the seller of the contract and the 1331  
trustee of the preneed funeral contract trust stating that the 1332  
purchaser intends to cancel the contract. Fifteen days after the 1333  
purchaser provides that notice to the seller and trustee, the 1334  
purchaser may cancel the contract. Upon canceling a preneed 1335  
funeral contract pursuant to this division, one of the following 1336  
shall occur, as applicable: 1337

(1) If the preneed funeral contract does not stipulate a firm 1338  
or fixed or guaranteed price for funeral goods and funeral 1339  
services to be provided under the preneed funeral contract, the 1340  
trustee shall give to the purchaser all of the assets of the trust 1341  
that exist at the time of cancellation, less any fees charged, 1342  
distributions paid, and expenses incurred by the trustee pursuant 1343  
to division (D) of this section. 1344

(2) If the preneed funeral contract does stipulate a firm or 1345  
fixed or guaranteed price for funeral goods and funeral services 1346  
to be provided under the contract, the purchaser may request and 1347  
receive from the trustee all of the assets of the trust at the 1348  
time of cancellation, less a cancellation fee that the original 1349  
seller may collect from the trustee that is equal to or less than 1350  
ten per cent of the value of the assets of the trust on the date 1351  
the trust is cancelled and less any fees charged, distributions 1352

paid, and expenses incurred by the trustee pursuant to division 1353  
(D) of this section. 1354

If more than one purchaser enters into the contract, all of 1355  
those purchasers must request cancellation of the contract for it 1356  
to be effective under this division, and the trustee shall refund 1357  
to each purchaser only those funds that purchaser has paid under 1358  
the contract and any income earned on those funds in an amount 1359  
that is in direct proportion to the amount of funds that purchaser 1360  
paid relative to the total amount of payments deposited in that 1361  
trust, less any fees charged, distributions paid, and expenses 1362  
incurred by the trustee pursuant to division (D) of this section, 1363  
the amount of which are in direct proportion to the amount of 1364  
funds that purchaser paid relative to the total amount of payments 1365  
deposited in that trust. 1366

(F) The purchaser of a preneed funeral contract that is 1367  
irrevocable may transfer the preneed funeral contract to a 1368  
successor seller. A purchaser who elects to make such a transfer 1369  
shall provide a written notice of the designation of a successor 1370  
seller to the trustee and the original seller. Within fifteen days 1371  
after receiving the written notice of the new designation from the 1372  
purchaser, the trustee shall list the successor seller as the 1373  
seller of the preneed funeral contract and the original seller 1374  
shall relinquish and transfer all rights under the preneed funeral 1375  
contract to the successor seller. The trustee shall confirm the 1376  
transfer by providing written notice of the transfer to the 1377  
original seller, the successor seller, and the purchaser. If the 1378  
preneed funeral contract stipulates a firm or fixed or guaranteed 1379  
price for the funeral goods and funeral services to be provided 1380  
under the preneed funeral contract, the original seller may 1381  
collect from the trustee a transfer fee from the trust that equals 1382  
up to ten per cent of the value of the assets of the trust on the 1383  
date the trust is transferred. If the preneed funeral contract 1384

does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no transfer fee shall be collected by the original seller. 1385  
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(G) If a seller of a preneed funeral contract elects to transfer a preneed funeral contract trust from an institution listed in divisions (B)(1) to (3) of this section to a different institution, the trustee of the original trust shall notify the purchaser of the preneed funeral contract of that transfer in writing within thirty days after the transfer occurred and shall provide the purchaser with the name of and the contact information for the institution where the new trust is maintained. Upon receipt of the trust, the trustee of the transferred trust shall notify the purchaser of the receipt of the trusts in accordance with division (A) of section 4717.33 of the Revised Code. 1389  
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(H) If a seller receives a notice that the contract beneficiary has died and that funeral goods and funeral services have been provided by a provider other than the seller, except as otherwise specified in this section, the seller shall direct the trustee, within thirty days after receiving that notice, to pay to the contract beneficiary all funds held by the trustee, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (D) of this section. In the event the preneed funeral contract stipulates a firm or fixed or guaranteed price for funeral goods and funeral services that were to be provided under the preneed funeral contract, the seller may collect from the trustee a cancellation fee not exceeding ten per cent of the value of the assets of the trust on the date the trust is transferred. If the preneed funeral trust does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the preneed funeral contract, no cancellation fees shall be collected by the original seller. 1400  
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(I) A certified copy of the certificate of death or other 1417  
evidence of death satisfactory to the trustee shall be furnished 1418  
to the trustee as evidence of death, and the trustee shall 1419  
promptly pay the accumulated payments and income, if any, 1420  
according to the preneed funeral contract. Such payment of the 1421  
accumulated payments and income pursuant to this section and, when 1422  
applicable, the preneed funeral contract, relieves the trustee of 1423  
any further liability on the accumulated payments and income. 1424

Sec. 4717.37. For purposes of sections 4717.31 to 4717.38 of 1425  
the Revised Code, a seller is considered to have delivered funeral 1426  
goods pursuant to a preneed funeral contract when the seller makes 1427  
actual delivery of the goods to the contract beneficiary. 1428

Sec. 4717.38. Sections 4717.31 to 4717.38 of the Revised Code 1429  
shall be construed as a limitation on the manner in which a person 1430  
is permitted to accept funds in prepayment for funeral services to 1431  
be performed in the future, or funeral goods to be used in 1432  
connection with the funeral or final disposition of human remains, 1433  
to the end that at all times members of the public may have an 1434  
opportunity to arrange and pay for a funeral for themselves and 1435  
their families in advance of need while at the same time providing 1436  
all possible safeguards to ensure that prepaid funds cannot be 1437  
dissipated, whether intentionally or not, but remain available for 1438  
payment for funeral goods and funeral services in connection with 1439  
the funeral or final disposition of dead human bodies. 1440

Sections 4717.31 to 4717.38 of the Revised Code do not apply 1442  
to a seller if that seller is an established and legally 1443  
cognizable church or denomination that is exempt from federal 1444  
income taxation under section 501(c)(3) of the "Internal Revenue 1445  
Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and the 1446  
preneed funeral contract pertains to a cemetery owned and operated 1447

entirely and exclusively by the church or denomination, on the 1448  
condition that the church or denomination adopts, on a voluntary 1449  
basis, rules and other measures to safeguard and secure all funds 1450  
received under any preneed funeral contract. 1451

Any money, insurance policies, annuities, or other items 1452  
delivered in payment of a preneed funeral contract, and any funds 1453  
held in trust pursuant to section 4717.36 of the Revised Code, are 1454  
exempt from levy, attachment, or sale to satisfy a judgment or 1455  
order. 1456

**Sec. 4717.99.** Whoever violates any provision of sections 1457  
4717.01 to 4717.15; division (A) or (B) of section 4717.23; 1458  
division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), 1459  
or divisions (H) to (K) of section 4717.26; division (D)(1) of 1460  
section 4717.27; or divisions (A) to (C) of section 4717.28 of the 1461  
Revised Code shall be fined not less than one hundred nor more 1462  
than five thousand dollars, or imprisoned for not more than one 1463  
year, or both, for the first offense. For each subsequent offense 1464  
such a person shall be fined not less than one hundred nor more 1465  
than ten thousand dollars, or imprisoned for not more than one 1466  
year, or both. 1467

Whoever purposely violates division (D) or (E) of section 1468  
4717.31 of the Revised Code is guilty of a misdemeanor of the 1469  
third degree. If the purpose of a violation of that division is to 1470  
commit or facilitate the commission of a felony, whoever violates 1471  
that division is guilty of a felony of the fourth degree. 1472

**Sec. 5747.02.** (A) For the purpose of providing revenue for 1474  
the support of schools and local government functions, to provide 1475  
relief to property taxpayers, to provide revenue for the general 1476  
revenue fund, and to meet the expenses of administering the tax 1477



levied by this chapter, there is hereby levied on every 1478  
individual, trust, and estate residing in or earning or receiving 1479  
income in this state, on every individual, trust, and estate 1480  
earning or receiving lottery winnings, prizes, or awards pursuant 1481  
to Chapter 3770. of the Revised Code, and on every individual, 1482  
trust, and estate otherwise having nexus with or in this state 1483  
under the Constitution of the United States, an annual tax 1484  
measured in the case of individuals by Ohio adjusted gross income 1485  
less an exemption for the taxpayer, the taxpayer's spouse, and 1486  
each dependent as provided in section 5747.025 of the Revised 1487  
Code; measured in the case of trusts by modified Ohio taxable 1488  
income under division (D) of this section; and measured in the 1489  
case of estates by Ohio taxable income. The tax imposed by this 1490  
section on the balance thus obtained is hereby levied as follows: 1491

(1) For taxable years beginning in 2004: 1492

OHIO ADJUSTED GROSS INCOME LESS 1493

EXEMPTIONS (INDIVIDUALS)

OR 1494

MODIFIED OHIO 1495

TAXABLE INCOME (TRUSTS) 1496

OR 1497

OHIO TAXABLE INCOME (ESTATES) TAX 1498

\$5,000 or less .743% 1499

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 1500  
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 1501  
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 1502  
than \$20,000 amount in excess of \$15,000

More than \$20,000 but not more \$445.80 plus 4.457% of the 1503  
than \$40,000 amount in excess of \$20,000

More than \$40,000 but not more \$1,337.20 plus 5.201% of the 1504

than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	1505
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	1506
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	1507
(2) For taxable years beginning in 2005:		1508
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1509
OR		1510
MODIFIED OHIO		1511
TAXABLE INCOME (TRUSTS)		1512
OR		1513
OHIO TAXABLE INCOME (ESTATES)	TAX	1514
\$5,000 or less	.712%	1515
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	1516
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	1517
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	1518
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	1519
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	1520
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	1521
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	1522
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	1523
(3) For taxable years beginning in 2006:		1524

OHIO ADJUSTED GROSS INCOME LESS		1525
EXEMPTIONS (INDIVIDUALS)		
OR		1526
MODIFIED OHIO		1527
TAXABLE INCOME (TRUSTS)		1528
OR		1529
OHIO TAXABLE INCOME (ESTATES)	TAX	1530
\$5,000 or less	.681%	1531
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	1532
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	1533
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	1534
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	1535
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	1536
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	1537
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	1538
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	1539
(4) For taxable years beginning in 2007:		1540
OHIO ADJUSTED GROSS INCOME LESS		1541
EXEMPTIONS (INDIVIDUALS)		
OR		1542
MODIFIED OHIO		1543
TAXABLE INCOME (TRUSTS)		1544
OR		1545
OHIO TAXABLE INCOME (ESTATES)	TAX	1546
\$5,000 or less	.649%	1547

More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1548
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	1549
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1550
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1551
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1552
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1553
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1554
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1555
(5) For taxable years beginning in 2008:		1556
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1557
OR		1558
MODIFIED OHIO		1559
TAXABLE INCOME (TRUSTS)		1560
OR		1561
OHIO TAXABLE INCOME (ESTATES)	TAX	1562
\$5,000 or less	.618%	1563
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1564
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1565
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1566
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1567

More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1568
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1569
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1570
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1571
(6) For taxable years beginning in 2009 or thereafter:		1572
OHIO ADJUSTED GROSS INCOME LESS		1573
EXEMPTIONS (INDIVIDUALS)		
OR		1574
MODIFIED OHIO		1575
TAXABLE INCOME (TRUSTS)		1576
OR		1577
OHIO TAXABLE INCOME (ESTATES)	TAX	1578
\$5,000 or less	.587%	1579
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1580
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1581
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1582
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1583
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1584
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	1585
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1586
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1587

In July of each year, beginning in 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

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

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

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

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

(1) The tax imposed by this section on a trust shall be 1619  
computed by multiplying the Ohio modified taxable income of the 1620  
trust by the rates prescribed by division (A) of this section. 1621

(2) A credit is allowed against the tax computed under 1622  
division (D) of this section equal to the lesser of (1) the tax 1623  
paid to another state or the District of Columbia on the trust's 1624  
modified nonbusiness income, other than the portion of the trust's 1625  
nonbusiness income that is qualifying investment income as defined 1626  
in section 5747.012 of the Revised Code, or (2) the effective tax 1627  
rate, based on modified Ohio taxable income, multiplied by the 1628  
trust's modified nonbusiness income other than the portion of 1629  
trust's nonbusiness income that is qualifying investment income. 1630  
The credit applies before any other applicable credits. 1631

(3) The credits enumerated in divisions (A)(1) to (13) of 1632  
section 5747.98 of the Revised Code do not apply to a trust 1633  
subject to this division. Any credits enumerated in other 1634  
divisions of section 5747.98 of the Revised Code apply to a trust 1635  
subject to this division. To the extent that the trust distributes 1636  
income for the taxable year for which a credit is available to the 1637  
trust, the credit shall be shared by the trust and its 1638  
beneficiaries. The tax commissioner and the trust shall be guided 1639  
by applicable regulations of the United States treasury regarding 1640  
the sharing of credits. 1641

(E) For the purposes of this section, "trust" means any trust 1642  
described in Subchapter J of Chapter 1 of the Internal Revenue 1643  
Code, excluding trusts that are not irrevocable as defined in 1644  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1645  
have no modified Ohio taxable income for the taxable year, 1646  
charitable remainder trusts, qualified funeral trusts and preneed 1647  
funeral contract trusts established pursuant to ~~section 1111.19~~ 1648  
sections 4717.31 to 4717.38 of the Revised Code that are not 1649  
qualified funeral trusts, endowment and perpetual care trusts, 1650

qualified settlement trusts and funds, designated settlement 1651  
trusts and funds, and trusts exempted from taxation under section 1652  
501(a) of the Internal Revenue Code. 1653

**Section 2.** That existing sections 1151.345, 1161.59, 1654  
1721.211, 1733.51, 2108.81, 2117.251, 3103.03, 3901.04, 3905.451, 1655  
4717.01, 4717.03, 4717.13, 4717.14, 4717.99, and 5747.02 and 1656  
sections 1111.19 and 1111.99 of the Revised Code are hereby 1657  
repealed. 1658

**Section 3.** Sections 1 and 2 of this act shall take effect 1659  
ninety days after the effective date of this act. 1660